

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,

Plaintiff,

V.

**HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, and HYUNDAI MOTOR
AMERICA, INC.,**

Defendants.

CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION FOR LEAVE TO REPLY TO PLAINTIFF'S RESPONSE IN
OPPOSITION TO DEFENDANTS' MOTION TO QUASH NON-PARTY
SUBPOENA TO ALABAMA PSYCHIATRIC SERVICES AND SAEED A. SHAH, MD.**

Defendants Hyundai Motor Manufacturing Alabama, LLC (HMMA) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”), move this Honorable Court to allow Defendants to reply *Plaintiff’s Response in Opposition to Defendants’ Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* (Doc. No. 74). In support of this motion, Defendants state as follows:

1. *Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* was filed on December 17, 2007.

2. Defendants ask this Court to allow them to reply and consider their *Reply to Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.*

WHEREFORE, PREMISES CONSIDERED, Defendants request this Honorable Court to consider Defendants' *Reply to Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.*, and, if necessary, enter an Order allowing Defendants' to respond considering the attached Exhibit A as Defendants' response.

Respectfully submitted this 20th day of December, 2007.

/s/ T. Scott Kelly
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T. Scott Kelly (KEL-053)
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Pro Hac Vice Granted 05/15/07

Attorneys for Defendants Hyundai Motor
Manufacturing Alabama, LLC and
Hyundai Motor America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of December, 2007, I electronically filed the foregoing *Defendants' Motion to Quash Non-Party Subpoena to Industrial Care Management* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey Rayborn Sport, Trent Scofield, and Matthew K. Johnson.

/s/ T. Scott Kelly

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V.

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Defendants.

CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC

DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION TO QUASH NON-PARTY
SUBPOENA TO ALABAMA PSYCHIATRIC SERVICES AND SAEED A. SHAH, MD.

Defendants Hyundai Motor Manufacturing Alabama, LLC (HMMA) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”), reply to *Plaintiff’s Response in Opposition to Defendants’ Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* (Doc. No. 74) as follows:

I. Mr. Brookshire's Medical And/or Psychiatric Records Are Irrelevant.

A closer examination of Mr. Brookshire's role in this litigation supports Defendants' position that Plaintiff is not entitled to the records requested in his subpoena. Mr. Brookshire is not a party and his only involvement in this case stems from his observation and report to HMMA management of Plaintiff sleeping at work. Mr. Brookshire observed Plaintiff sleeping with his head down and his legs extended for approximately 2 minutes during the early morning hours of February 14, 2007. (Deposition Transcript of Jim Brookshire attached hereto as Exhibit 1 at 123: 3-10; 129: 1-2, 11-12).

After receiving this report, HMMA investigated the incident and ultimately terminated Plaintiff's employment on February 26, 2007. HMMA's investigation into Plaintiff's misconduct was comprehensive. Both Mr. Brookshire and Plaintiff were interviewed and their respective versions of events were reduced to written form. (*See* Declaration of Rob Clevenger attached hereto as Exhibit 2 at ¶¶ 5, 6, 7 and Attachments A, B, C)¹.

Approximately six weeks after he reported Plaintiff sleeping on the job, Mr. Brookshire failed a drug screen in connection with a post-accident screen. (Exhibit 1 at 48: 15-19). However, Mr. Brookshire testified he never used and was not under the influence of drugs or alcohol while on HMMA property. (Exhibit 1 at 47: 1-2; 179: 11-14; 180: 5-9).

The timing of Mr. Brookshire's report of Plaintiff sleeping and Mr. Brookshire's subsequent positive drug screen support HMMA's position that it had no reason to doubt Mr. Brookshire's version of events. Additionally, Plaintiff's own testimony reveals that Mr. Brookshire had no discriminatory animus towards Plaintiff's military status. For example, Plaintiff testified:

- Q. Did you know Jim Brookshire well?
- A. He was -- Yeah. Working with him every day near about.
- Q. Okay. Did you ever have any problems with him?
- A. No. Not like with everyone else, no.

(Deposition Transcript of Plaintiff attached hereto as Exhibit 3 at 228: 6-13). Plaintiff's own self-serving conclusions that another HMMA employee, Greg Prater², convinced Mr. Brookshire to falsely accuse Plaintiff of sleeping on the job are unsupported. Indeed, Plaintiff admitted he possessed no personal knowledge or evidence of this allegation. (Exhibit 3 at 193: 19-23; 194: 1-15; 197: 12-23; 198: 1).

¹ This Declaration was filed in connection with Defendants' pending Motion for Summary Judgment.

² Plaintiff admits that Greg Prater, his supervisor, also served in the military.

HMMA had no reason to doubt Mr. Brookshire's credibility at the time he reported that Plaintiff was asleep at work or on February 26, 2007, when it terminated Plaintiff's employment. *See Damon v. Fleming Supermarkets of Fla., Inc.*, 196 F.3d 1354, 1361 (11th Cir. 1999) ("[a]n employer who fires an employee under the mistaken but honest impression that the employee violated a work rule is not liable for discriminatory conduct."); *EEOC v. Total Systems Services, Inc.*, 221 F.3d 1171, 1175 (11th Cir. 2000) ("an employer is entitled to rely on its good faith belief about falsity, concealment, and so forth in an internal investigation and can properly discharge an employee who it believes has lied in an internal investigation") (internal citations omitted); *Elrod v. Sears, Roebuck & Co.*, 939 F.2d 1466, 1470 (11th Cir. 1991) (proper inquiry is whether the employer in good faith believed that the employee had done wrong and whether this belief was the reason for the termination).

Therefore, Mr. Brookshire's sensitive and confidential medical and/or psychiatric records clearly are not relevant to Plaintiff's claims of discrimination. Accordingly, this Court should quash the subpoenas to Alabama Psychiatric Services and Dr. Shah.

II. Mr. Brookshire Is Not A Party To This Lawsuit And Has Not Waived The Privilege

Plaintiff argues that Mr. Brookshire has waived the psychiatric-patient privilege. However, Plaintiff misses the point here because to waive the privilege in this lawsuit, Mr. Brookshire must be a party to the current litigation. Mr. Brookshire is not; he is a non-party fact witness that observed and then reported that Plaintiff was asleep at work. Also, at no point in this litigation has Mr. Brookshire used his alleged medical and/or psychiatric condition as evidence in this case. Instead, Plaintiff has attempted to capitalize on Mr. Brookshire's positive drug screen in effort to distort the fact that he was discovered asleep at work.

The cases Plaintiff cites on wavier in his opposition are inapposite to the current situation. For example, in *Vanderbilt v. Town on Chilmark*, 174 F.R.D. 225 (D. Mass 1997), the **plaintiff** alleged she suffered emotional distress damages as a result of the alleged discrimination and retaliation she suffered by her former employer. *Id.* at 226. The employer filed a motion to compel for the plaintiff to produce, among other things, her psychiatric and psychotherapeutic records arguing that by putting her emotional state at issue, plaintiff waived the privilege. *Id.* at 228. The *Vanderbilt* court upheld the psychiatric-patient privilege and denied the employer's motion to compel. *Id.* at 230.

In *Kelly v. Owens*, 2007 WL 2580492 (M.D. Ala. Sept. 4, 2007), the **plaintiff** alleged inadequate medical care and physical abuse during his pretrial detention in the Coosa County Jail. *Id.* at *1. The *Kelly* court held that psychiatric-patient privilege had been waived when **plaintiff** placed his mental health at issue by alleging an existing mental illness when he was first detained and developed a new mental illness as a result of his treatment while detained. 2007 WL 2580492 at *3.

Finally, in *Doe v. Ensey, et al.*, 220 F.R.D. 422 (M.D. Pa. 2004), the court held that any discussions between defendants, who were priests accused of sexual molestation by plaintiff, and their psychologists were protected by the federal privilege recognized in *Jaffe* but that under Pennsylvania law the privilege was waived because of the priests disclosure of the protected information to third parties.

In all three of these cases, the courts analyzed the application of the privilege to the parties, not non-party witnesses. Mr. Brookshire has not waived the privilege in this case and, therefore, his records should be protected from disclosure.

III. Defendants Have Standing

Plaintiff fails to recognize that Alabama Psychiatric Services and Dr. Saeed Shah have also filed a Motion to Quash the subpoenas. These parties certainly have standing. HMMA also has standing to challenge the subpoena due to its relationship with Mr. Brookshire. As his employer, HMMA has a right and an obligation to protect the privacy interests of Mr. Brookshire. The court should not allow Plaintiff to invade Mr. Brookshire's privacy rights so Plaintiff can conduct a fishing expedition on Mr. Brookshire when it is clear that HMMA had no reason at the time to doubt Mr. Brookshire's version of events. Defendants' Motion to Quash is due to be granted.

WHEREFORE, PREMISES CONSIDERED, Defendants request this Honorable Court to order the Clerk of Court to deny issuance of the Plaintiff's proposed subpoena directed to the Custodian of Records of Alabama Psychiatric Services and Saeed A. Shah, M.D.

Respectfully submitted this 20th day of December, 2007.

/s/ T. Scott Kelly
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Attorneys for Defendants Hyundai Motor
Manufacturing Alabama, LLC and
Hyundai Motor America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of December, 2007, I electronically filed the foregoing *Defendants' Motion to Quash Non-Party Subpoena to Industrial Care Management* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey Rayborn Sport, Trent Scofield, and Matthew K. Johnson.

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EXHIBIT 1

JAMES ALLEN BROOKSHIRE

1	IN THE UNITED STATES DISTRICT COURT	1	INDEX
2	FOR THE MIDDLE DISTRICT OF ALABAMA	2	EXAMINATION BY: PAGE NUMBER
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5		5	Mr. Kilborn.....182-186
6	JERRY LEON DEES, JR.,	6	Mr. Johnson.....186
7	Plaintiff,	7	
8	V.	8	EXHIBITS:
9	HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC and	9	Plaintiff's Exhibit 13.....12
10	HYUNDAI MOTOR AMERICA, INC.,	10	(two handwritten statements)
11	Defendants.	11	Plaintiff's Exhibit 14.....33
12		12	(employment application)
13	STIPULATIONS	13	Plaintiff's Exhibit 15.....38
14		14	(Team Member Handbook)
15		15	Plaintiff's Exhibit 16.....98
16	IT IS STIPULATED AND AGREED by and	16	(Team Relations Memo)
17	between the parties, through their respective	17	
18	counsel, that the deposition of JAMES ALLEN	18	
19	BROOKSHIRE may be taken before STACEY L.	19	
20	JOHNSON, Commissioner, at the Marriott	20	
21	Prattville at Capitol Hill, 2500 Legends Circle,	21	
22	Prattville, Alabama, on the 29th day of	22	
23	November, 2007.	23	
	1		3
1	IT IS FURTHER STIPULATED AND AGREED	1	APPEARANCES
2	that the signature to and the reading of the	2	FOR THE PLAINTIFF, JERRY LEON DEES, JR.:
3	deposition by the witness is hereby waived, the	3	KILBORN, ROEBUCK & McDONALD
4	deposition to have the same force and effect as	3	Jeffrey R. Sport
5	if full compliance had been had with all laws	4	(SPORJ5390)
6	and rules of Court relating to the taking of	4	jeff.sport@sportlaw.us
7	depositions.	5	
8	IT IS FURTHER STIPULATED AND AGREED	5	Vincent F. Kilborn, III
9	that it shall not be necessary for any	6	(KILBV4484)
10	objections to be made by counsel to any	6	1810 Old Government Street
11	questions except as to form or leading	7	Mobile, Alabama 36606
12	questions, and that counsel for the parties may	7	(251) 479-9010
13	make objections and assign grounds at the time	8	
14	of trial, or at the time said deposition is	9	FOR THE DEFENDANTS, HYUNDAI MOTOR MANUFACTURING
15	offered in evidence, or prior thereto.	10	ALABAMA, LLC and HYUNDAI MOTOR AMERICA, INC.:
16	IT IS FURTHER STIPULATED AND AGREED	11	OGLETREE, DEAKINS, NASH, SMOAK
17	that the notice of filing of the deposition by	11	& STEWART, P.C.
18	the Commissioner is waived.	12	Matthew K. Johnson
19		12	P. O. Box 2757
20		13	Greenville, South Carolina 29602
21		13	
22		14	HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC
23		14	Christopher N. Smith
	2	15	chrissmith@hmmausa.com
		15	700 Hyundai Boulevard
		16	Montgomery, Alabama 36105
		16	(334) 387-8057
		17	
		18	
		19	
		20	
		21	
		22	
		23	
			4

JAMES ALLEN BROOKSHIRE

<p>1 I, STACEY L. JOHNSON, a CCR of Deatsville, 2 Alabama, and Notary Public for the State of 3 Alabama at Large, acting as Commissioner, 4 certify that on this date, as provided by the 5 Federal Rules of Civil Procedure and the 6 foregoing stipulation of counsel, there came 7 before me at 2500 Legends Circle, Prattville, 8 Alabama, beginning at 9:25 a.m., JAMES ALLEN 9 BROOKSHIRE, witness in the above cause, for oral 10 examination, whereupon the following proceedings 11 were had: 12 JAMES ALLEN BROOKSHIRE, 13 the witness, after having been first duly sworn 14 to speak the truth, the whole truth, and nothing 15 but the truth, testified as follows: 16 EXAMINATION 17 BY MR. KILBORN: 18 Q State your full name, Mr. Brookshire. 19 A James Allen Brookshire. 20 Q How old are you? 21 A 35. 22 Q Are you married? 23 A Yes, sir.</p>	<p>1 Q Well, I'm going to let that question 2 stand. What is your current employment status? 3 A I'm employed if that's... 4 Q All right. You're employed? 5 A Yeah. 6 Q How long have you been employed? 7 A I've been working at Hyundai since 8 August of '05. 9 Q So you've been employed by -- we'll 10 call it HMMA? 11 A Yes, sir. 12 Q Hyundai Motor Manufacturing? 13 A Yes, sir. 14 Q Since August of 2005? 15 A Yes, sir. 16 Q And what is your current job title? 17 A Stamping Production Manager. 18 Q What is that? What are your job duties 19 as Stamping Production Manager? 20 A I oversee all the day-to-day operations 21 in the Stamping Shop, whether it be safety, 22 quality, tool and die, scheduling, and any HR 23 Team Member concerns or Team Relations problems.</p>
<p>1 Q Any children? 2 A Two of my own and two stepchildren. 3 Q And just for background information, 4 how old are your own children? 5 A My little one just turned seven months 6 and the other one is 19 months. 7 Q Seven months and 19 months? 8 A Driving my wife nuts. 9 Q Okay. And your wife's name? 10 A Stephanie Lynn Brookshire. 11 Q And where do you live? 12 A Where did I live or where do I live 13 currently? 14 Q Where do you live currently? 15 A 1048 East Poplar Street here in 16 Prattville. 17 Q Are you currently employed? 18 A Yes, sir. 19 Q By who? 20 A Hyundai Motor Manufacturing. 21 Q What's your current employment status? 22 A What do you mean by that? My 23 position?</p>	<p>1 Q Safety, quality? 2 A Production. 3 Q Production. 4 A Scheduling, tool and die, and 5 day-to-day personnel Team Member issues or Team 6 Relations problems. 7 Q Do you have a work schedule? 8 A The start time and stop time? 9 Q Right. 10 A I start at 5:45 in the morning and 11 usually finish up about 5:30 in the evening. 12 Q And do you have a lawyer here today? 13 A Yes, I do. 14 Q Who is your lawyer? 15 A Matt and our company lawyer, Chris. 16 Q And what are your lawyers' last names? 17 A Chris' last name is Smith. Matt, I'm 18 rusty on that. 19 Q What's your other lawyer's last name? 20 A I'm not sure. 21 Q So you've got one lawyer here you know 22 his real name and one lawyer here you only know 23 his first name?</p>

JAMES ALLEN BROOKSHIRE

1 A That's correct.

2 **Q And when did the lawyer that you've**
3 **identified as Matt become your lawyer?**

4 A His official start date with the case,
5 that was back -- I'm trying to remember the
6 first encounter I had. That was probably back
7 in April, April time frame.

8 **Q And how about the lawyer that you've**
9 **identified as Chris Smith? When did he become**
10 **your lawyer?**

11 A He's been part of our legal counsel
12 since probably at least about a year I've known
13 him.

14 **Q Well, I don't want to know just how**
15 **long he's been legal counsel. I want to know**
16 **how long has Chris Smith been your lawyer.**

17 MR. JOHNSON: Just for the Record,
18 object to the form. I don't see the relevance
19 of asking when Chris Smith's start date with
20 HMMA was.

21 MR. KILBORN: I don't want his start
22 date. I want to know when Chris Smith became
23 Jim Brookshire's lawyer.

1 and your explanation for asking it, I'll
2 instruct him not to answer. And he's stated he
3 will follow. However, please understand that
4 I'm willing to reconsider if you're willing to
5 give me some reason to do so.

6 MR. KILBORN: The reason I think it is
7 relevant and discoverable is because of the
8 Federal Rules of Civil Procedure. But let's
9 move on from that.

10 **Q What did you do to prepare for your**
11 **deposition today?**

12 A I had just met with my legal counsel
13 yesterday and -- to discuss when the time was I
14 was supposed to appear here today and what it
15 was in regards to.

16 **Q Okay. Did you review any documents to**
17 **prepare for your deposition?**

18 A Yes, sir.

19 **Q What documents did you review?**

20 A The documents that I had signed back, I
21 believe, in the April time frame that -- the
22 statements I had made in regards to Mr. Dees.

23 **Q Let's see if we can't identify those.**

1 MR. JOHNSON: And obviously that would
2 be attorney-client privilege.

3 MR. KILBORN: Not today it would not
4 be.

5 MR. JOHNSON: When Chris became
6 involved in representing Mr. Brookshire -- the
7 way you phrased the question -- would certainly
8 be.

9 MR. KILBORN: Well, you can instruct
10 him not to answer.

11 MR. JOHNSON: I instruct you not to
12 answer that.

13 **Q Are you going to follow your lawyer's**
14 **instructions?**

15 A Yes, sir.

16 **Q And you're going to refuse to tell me**
17 **the date that Mr. Chris Smith became your**
18 **lawyer; is that right?**

19 A Yes, sir.

20 MR. JOHNSON: I mean, Mr. Kilborn, if
21 you'll explain to me why it's relevant and
22 necessary, I'm certainly willing to reconsider,
23 but based on the way you've asked the question

1
2 (Whereupon, Plaintiff's Exhibit
3 Number 13 was marked for identification
4 and copy of same is attached hereto.)
5

6 **Q Mr. Brookshire, take a look at what**
7 **I've marked as Exhibit 13, which is made up of**
8 **two pages and they've got Bates numbers at the**
9 **bottom. See these little numbers down here at**
10 **the bottom, Dees V HMMA 00037 and 38?**

11 A Yes, sir.

12 **Q So just to distinguish between the two**
13 **I'll call it Plaintiff's Exhibit 13. The first**
14 **one will be 37 and the second one will be 38.**
15 **Are those the documents that you reviewed?**

16 A Yes, sir.

17 **Q And are these your statements?**

18 A Yes, sir.

19 **Q And you reviewed them to prepare for**
20 **your deposition?**

21 A (Witness nods head.)

22 **Q You have to say yes or no.**

23 A Yes.

JAMES ALLEN BROOKSHIRE

1 Q Any other documents that you reviewed?	1 had told my supervisor about it the next day
2 A No.	2 because I was working night shift when it
3 Q And take a look at Exhibit 13, the	3 happened. My senior manager was sleeping, so
4 first document, Bates number 37. Whose	4 I'm not going to wake him up in the middle of
5 handwriting is that in?	5 the night to tell him something like that. I
6 A The signature at the bottom or the	6 just reported it to Mr. Dees' direct supervisor,
7 handwriting itself?	7 as well as my own, the next day.
8 Q Is that your signature?	8 Q Your supervisor was Kevin Hughes?
9 A Yes, that's my signature at the bottom.	9 A No. That's the team leader for
10 Q And it's dated February 15, '07?	10 Maintenance. My direct supervisor is Craig
11 A Yes, sir.	11 Stapely.
12 Q And the second document, Bates number	12 Q Craig Stapler?
13 38, is that your signature?	13 A Stapely.
14 A Yes, sir.	14 Q What is his job title?
15 Q And the date is four days later?	15 A He's senior manager of Stamping
16 A Yeah.	16 Operations.
17 Q Who's handwriting is that?	17 Q And did you report anything to
18 A Team Relations rep Will Ware.	18 Mr. Stapler (sic) or your Team Leader?
19 Q What's the name?	19 A I just reported the incident to
20 A Team Relations rep William Ware.	20 Mr. Stapely the next day and reported it to
21 Q Did you write up one yourself?	21 Leon's direct supervisor -- salaried supervisor,
22 A No.	22 Craig Prater. The team leader that I spoke of
23 Q And tell me how it came to pass that	23 on night shift is the team leader over Leon
13	15
1 you signed the first -- that you had this first	1 Dees, Kevin Hughes.
2 interview, Bates number 37.	2 Q Kevin Hughes?
3 A The one -- the issue was brought about	3 A Yeah.
4 during a time frame in which Leon's supervisor,	4 Q And so the first person you reported
5 Mr. Prater, had asked me about a problem that I	5 this incident to was Mr. Hughes?
6 had had the night before. I told the Team	6 A Yes, sir.
7 Leader on the night shift -- because I was	7 Q And did you report it verbally or in
8 currently on night shift at the time covering	8 writing?
9 because we had an assistant manager that had	9 A Verbally.
10 resigned and went to work for another company,	10 Q And what did you tell him?
11 and my senior manager had moved me to night	11 A I told him I'd caught one of his
12 shift to cover for his position. And I had a	12 Maintenance Team Members up there by the contro
13 problem there with Mr. Dees in which he was	13 panel upstairs on the third floor in the SOP
14 caught in a position of sleeping, and I had made	14 area sleeping.
15 note to the Team Leader and also informed his	15 Q What's SOP stand for?
16 assistant manager the next day on day shift.	16 A Side outer panel area. SOP, side outer
17 Q We'll get into that in detail. Who did	17 panel.
18 you first report that to?	18 Q And why did you report the sleeping
19 A Reported it to the Team Leader.	19 incident?
20 Q Who was that?	20 A Because that's an unbecoming nature of
21 A Kevin Hughes.	21 conduct or action of a Team Member to be in a
22 Q Was the Team Leader your supervisor?	22 concealed area sleeping during working time.
23 A Team Leader is not my supervisor. I	23 Q What's wrong with sleeping during
14	16

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<p>1 working time?</p> <p>2 A It's not permissible.</p> <p>3 Q Why not?</p> <p>4 A It's against policy.</p> <p>5 Q What's that policy designed to prevent?</p> <p>6 A That's unbecoming performance of a Team</p> <p>7 Member. They're not doing their job.</p> <p>8 Q Not doing their job?</p> <p>9 A (Witness nods head.)</p> <p>10 Q You have to answer yes or no. Is that</p> <p>11 a yes?</p> <p>12 A He wasn't doing his job.</p> <p>13 Q You nodded and she can't get nods.</p> <p>14 You have to say yes or no.</p> <p>15 A Yes. He wasn't doing his job.</p> <p>16 Q Wasn't doing his job. Was that a</p> <p>17 safety issue?</p> <p>18 A Could be.</p> <p>19 Q How could it be?</p> <p>20 A Well, if he'd fall off the -- fall off</p> <p>21 the chair onto the mezzanine or the catwalk</p> <p>22 floor, he could injure himself. Possibly he</p> <p>23 could fall in the position -- because upstairs</p> <p style="text-align: right;">17</p>	<p>1 '05. During our two-week orientation, we had</p> <p>2 Safety members of management come in there and</p> <p>3 train us on basic fundamentals in operations of</p> <p>4 the automation in the plant.</p> <p>5 Q When myself and Jeff Sport were there</p> <p>6 yesterday with the two Hyundai attorneys, I</p> <p>7 noticed we had to wear ear plugs, safety</p> <p>8 goggles, Kevlar sleeves, and hard hats. I got</p> <p>9 the feeling it was sort of a dangerous place to</p> <p>10 be. Is that a good description of that plant?</p> <p>11 MR. JOHNSON: Object to the form.</p> <p>12 A Depending on which area you're in in</p> <p>13 the plant deems which appropriate PPE is</p> <p>14 necessary to wear in that department. Our</p> <p>15 department, you're exposed to a lot of outer</p> <p>16 surface metal, sheet metal, which we're in a</p> <p>17 higher chance of getting lacerations or getting</p> <p>18 cuts. And it's always been a standard to wear</p> <p>19 hard hats in the area. Each area is designated</p> <p>20 to wear certain parts of PPE. Just like in GA</p> <p>21 all you have to wear out there is safety shoes,</p> <p>22 safety shoes and safety glasses.</p> <p>23 Q Is the part of the plant where you were</p> <p style="text-align: right;">19</p>
<p>1 we have trolleys carrying panels around. And if</p> <p>2 he wasn't watching what he was doing or fell in</p> <p>3 a particular manner, maybe had a bad dream or</p> <p>4 something like that, if he got up, he could get</p> <p>5 seriously cut or injured by moving trolleys.</p> <p>6 Q And is safety one of the things you're</p> <p>7 in charge of?</p> <p>8 A Yes, sir.</p> <p>9 Q Have you had safety training?</p> <p>10 A Depends on what training you're talking</p> <p>11 about.</p> <p>12 Q Well, safety in regard to being in the</p> <p>13 plant.</p> <p>14 A I've had lock-out/tag-out training.</p> <p>15 Q What's that?</p> <p>16 A That's where if you enter any area</p> <p>17 where operational energy or any potential</p> <p>18 hazards are in your working area that you can</p> <p>19 disable that energy source.</p> <p>20 Q Any other safety training?</p> <p>21 A Not there at that facility. Just a</p> <p>22 basic -- excuse me. We had basic introduction</p> <p>23 to safety when I first started there in August</p> <p style="text-align: right;">18</p>	<p>1 the night we're talking about -- is that called</p> <p>2 the Stamping area?</p> <p>3 A Yes.</p> <p>4 Q And the two large stamping presses</p> <p>5 stamp out metal sheets --</p> <p>6 A Yes, sir.</p> <p>7 Q -- into car parts?</p> <p>8 A Yes, sir.</p> <p>9 Q And they use it with what -- I mean,</p> <p>10 they accomplish it by hydraulic force?</p> <p>11 A They're actually pneumatics and</p> <p>12 mechanically driven presses.</p> <p>13 Q So it's a -- it's not a cutting with,</p> <p>14 say, a laser torch. It's a stamping with brute</p> <p>15 force?</p> <p>16 A Yeah. 5400 ton IHI stamping presses.</p> <p>17 Q Did you say tons?</p> <p>18 A Yeah, 5400 ton presses.</p> <p>19 Q Not pounds?</p> <p>20 A Right. Correct.</p> <p>21 Q And when that 5400 tons stamps out a</p> <p>22 part, I imagine that's noisy, isn't it?</p> <p>23 A Yeah.</p> <p style="text-align: right;">20</p>

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<p>1 Q Do you in that area -- we call it the</p> <p>2 Stamping Plant; is that correct?</p> <p>3 A Yes.</p> <p>4 Q The Stamping Plant, what safety gear do</p> <p>5 you wear?</p> <p>6 A I wear sleeves, gloves, eye protection,</p> <p>7 bump cap. Safety has just designated in the</p> <p>8 last six months that we need to wear hearing</p> <p>9 protection and steel-toe shoes.</p> <p>10 Q So at the time of the Dees incident,</p> <p>11 you wore helmets, Kevlar sleeves, gloves?</p> <p>12 A Gloves if you're handling material, the</p> <p>13 steel material.</p> <p>14 Q All right. Eye protection?</p> <p>15 A Yes, sir.</p> <p>16 Q But not necessarily ear plugs?</p> <p>17 A Not at that time.</p> <p>18 Q How about steel-toe shoes?</p> <p>19 A Yes, sir.</p> <p>20 Q And you've got on steel-toe shoes now,</p> <p>21 don't you?</p> <p>22 A Yes, I do.</p> <p>23 Q And that safety equipment is basically</p> <p style="text-align: right;">21</p>	<p>1 A Yes.</p> <p>2 Q And welded down on there?</p> <p>3 A Yes.</p> <p>4 Q And I noticed that in walking across</p> <p>5 the mesh it was recommended that you walk on the</p> <p>6 angle iron, not on the mesh itself. Is that a</p> <p>7 good practice?</p> <p>8 A We walk across it. We've been</p> <p>9 instructed that it's okay to walk across it.</p> <p>10 Q Okay. And then the way to get to the</p> <p>11 different levels is up metal stairs?</p> <p>12 A Yes, sir.</p> <p>13 Q And the area where you describe where</p> <p>14 Mr. Dees was sleeping, the trolleys, are those</p> <p>15 the devices that sort of hang from the ceiling</p> <p>16 and parts are carried around on some kind of</p> <p>17 conveyor system?</p> <p>18 A Yes.</p> <p>19 Q You call those trolleys?</p> <p>20 A Yes.</p> <p>21 Q And the panel, the SOP panel, why is</p> <p>22 that -- what does that do?</p> <p>23 A The SOP panel is the panel that's hung</p> <p style="text-align: right;">23</p>
<p>1 for the protection of the individual who is in</p> <p>2 the plant?</p> <p>3 A Correct.</p> <p>4 Q And I also noticed in looking at the</p> <p>5 plant yesterday that it's a very large building,</p> <p>6 isn't it?</p> <p>7 A Correct.</p> <p>8 Q And the levels in the building are</p> <p>9 floored with what I would call catwalks. Is</p> <p>10 that a good name for that?</p> <p>11 A Yeah, that's appropriate.</p> <p>12 Q And a catwalk would be a metal grate?</p> <p>13 A Mesh floor.</p> <p>14 Q Mesh floor. And the mesh is a steel</p> <p>15 mesh, isn't it?</p> <p>16 A Correct.</p> <p>17 Q Almost like a wire, except very heavy</p> <p>18 gauge metal?</p> <p>19 A Yes, sir.</p> <p>20 Q And the mesh is put down on -- what do</p> <p>21 you call them?</p> <p>22 A Angle.</p> <p>23 Q Angle iron?</p> <p style="text-align: right;">22</p>	<p>1 on the trolley.</p> <p>2 Q That's hung on the trolley?</p> <p>3 A By the robots in the automation on the</p> <p>4 back of the press line.</p> <p>5 Q The panels that I'm talking about would</p> <p>6 be the metal panel where Mr. Dees was located.</p> <p>7 A Oh, the control panel, electrical</p> <p>8 control panel.</p> <p>9 Q That's different than the SOP?</p> <p>10 A Yeah. You've got three levels. You've</p> <p>11 got the base floor, you've got the second level,</p> <p>12 which they do the rework for the SOP panels</p> <p>13 where they have the repair booth and do</p> <p>14 inspection of those panels, and then the third</p> <p>15 floor is actually the storage system for the SOP</p> <p>16 panels.</p> <p>17 Q So the SOP panels are part of the</p> <p>18 automobile eventually?</p> <p>19 A Yeah. That's side outer, the big sides</p> <p>20 of the car.</p> <p>21 Q Okay. So what I want to talk about is</p> <p>22 the control panel where Mr. Dees was.</p> <p>23 A Electrical control panel.</p> <p style="text-align: right;">24</p>

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<p>1 Q What does that control?</p> <p>2 A That's the -- I guess you'd -- in base</p> <p>3 form, you'd say that's the brain behind the</p> <p>4 operation of the SOP system. It's where they go</p> <p>5 to check faults and reset faults.</p> <p>6 Q What's a fault?</p> <p>7 A If they have any kind of fault in the</p> <p>8 system.</p> <p>9 Q Such as?</p> <p>10 A Maybe a trolley quit, maybe there's a</p> <p>11 low voltage fault on one of the trolley boxes</p> <p>12 and they've got to search for it. Then the</p> <p>13 fault -- the system itself will capture the</p> <p>14 fault and then the system will send out to a</p> <p>15 touch screen and prompt a fault to let</p> <p>16 Maintenance know that they need to fix the</p> <p>17 problem.</p> <p>18 Q And that touch screen is inside the</p> <p>19 control panel?</p> <p>20 A There's one down on the floor between</p> <p>21 the presses.</p> <p>22 Q Well, how does it show up on the</p> <p>23 control panel if there's a fault?</p> <p style="text-align: right;">25</p>	<p>1 Q So was Mr. Dees in Maintenance?</p> <p>2 A Yes, he was.</p> <p>3 Q Would he have to know how to use that</p> <p>4 control panel?</p> <p>5 A He should.</p> <p>6 Q Part of his job?</p> <p>7 A He should, yeah.</p> <p>8 Q Going back to Exhibit 13, the first</p> <p>9 page, Bates number 37, is this statement that</p> <p>10 you signed true and correct?</p> <p>11 A Yeah, the best of my knowledge.</p> <p>12 Q Okay. You don't want to make any</p> <p>13 changes in it, do you?</p> <p>14 A No.</p> <p>15 Q And the second page of that exhibit,</p> <p>16 Bates number 38, is that also true and correct?</p> <p>17 A Yes.</p> <p>18 Q Do you want to make any changes in</p> <p>19 that?</p> <p>20 A No.</p> <p>21 Q Outside of these two documents, there's</p> <p>22 no other documents you reviewed?</p> <p>23 A No.</p> <p style="text-align: right;">27</p>
<p>1 A Because you can look in the control</p> <p>2 panel and you've got PLC processors in there and</p> <p>3 you'll have input and output analogue blocks.</p> <p>4 And they'll have certain bits that will be</p> <p>5 toggled that you can look it up. Maintenance</p> <p>6 typically has books up there, and they can look</p> <p>7 at which bit light is toggled on on the input or</p> <p>8 output card, and that will indicate to them what</p> <p>9 the fault is.</p> <p>10 Q This may be a simplification, but I</p> <p>11 know on cars nowadays, unlike when I was growing</p> <p>12 up, you can go into your car dealership and they</p> <p>13 can plug in a computer and they can tell what's</p> <p>14 wrong with the car with the computer. Is that a</p> <p>15 simplified way of what this control panel can</p> <p>16 tell you?</p> <p>17 A Yeah.</p> <p>18 Q You can locate where the fault is by --</p> <p>19 A Yeah, they can figure out -- it will</p> <p>20 give them basic error coding, give them an</p> <p>21 understanding of what's wrong. It doesn't tell</p> <p>22 them exactly where the problem is at, but it</p> <p>23 gives them an idea of what's wrong.</p> <p style="text-align: right;">26</p>	<p>1 Q What was the reason that the second</p> <p>2 statement was taken four days later on Bates</p> <p>3 number 38?</p> <p>4 A There was two situations where -- with</p> <p>5 Team Relations there's an interview with Kevin,</p> <p>6 then there was another interview later. And</p> <p>7 they just wanted to reassure that the</p> <p>8 understanding was the same both times.</p> <p>9 Q Who is they?</p> <p>10 A Team relations.</p> <p>11 Q I mean who? What human being?</p> <p>12 A William Ware is the one that took the</p> <p>13 statements, but whoever he reports to, Audie</p> <p>14 Swegman and Rob Clevenger and those guys.</p> <p>15 Q So what were you told when you --</p> <p>16 before you did the second interview on February</p> <p>17 19, '07?</p> <p>18 A That -- I wasn't really told anything.</p> <p>19 They just told me that we needed to make sure</p> <p>20 that there was a clear understanding of what</p> <p>21 happened on this night of this incident.</p> <p>22 Q Well, is this the first page, Bates</p> <p>23 number 37 -- that's not a clear understanding?</p> <p style="text-align: right;">28</p>

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<p>1 A I thought it was.</p> <p>2 Q So you didn't know why the second one</p> <p>3 was necessary?</p> <p>4 A I didn't understand why they needed</p> <p>5 another one, but whatever they needed, I told</p> <p>6 them, you know, I would sign off on it.</p> <p>7 Whatever information they deemed to make things</p> <p>8 gel up and what was needed, I was willing to do</p> <p>9 what they needed to do.</p> <p>10 Q And why do you think they needed to</p> <p>11 make things gel up?</p> <p>12 A Make sure my story is consistent to be</p> <p>13 fair to the Team Member, because that's Team</p> <p>14 Relations' job to make sure things are fair.</p> <p>15 Q Fair to Mr. Dees?</p> <p>16 A Yes.</p> <p>17 Q Well, you were fair to Mr. Dees on the</p> <p>18 first statement, number 37, weren't you?</p> <p>19 A That's what I seen.</p> <p>20 Q Was there anything -- you thought that</p> <p>21 was complete and accurate, number 37, didn't</p> <p>22 you?</p> <p>23 MR. JOHNSON: Object to the form.</p> <p style="text-align: right;">29</p>	<p>1 Q You're not on drugs? You're not on</p> <p>2 alcohol? You don't have any mental problems</p> <p>3 now?</p> <p>4 A No. My wife tells me I'm nuts</p> <p>5 sometimes, but...</p> <p>6 Q Well, sometimes they're right and</p> <p>7 sometimes they're wrong. But outside of that?</p> <p>8 A No.</p> <p>9 Q On the night in question -- and I think</p> <p>10 that is the date of February 14th, according to</p> <p>11 Exhibit 13, number 37 -- how many people were</p> <p>12 you in charge of supervising?</p> <p>13 A On night shift at that time would have</p> <p>14 been approximately 30.</p> <p>15 Q And were the 30 people scattered around</p> <p>16 the Stamping Plant?</p> <p>17 A Yeah.</p> <p>18 Q And at that time, you were in charge of</p> <p>19 quality, safety, production, those type issues?</p> <p>20 A Yeah. In that position in that place</p> <p>21 when I was working night shift, I was actually</p> <p>22 filling in for the responsibility of the</p> <p>23 assistant manager. When I'm actually in my full</p> <p style="text-align: right;">31</p>
<p>1 A To the best of my knowledge.</p> <p>2 Q Okay. Did Mr. Ware or anybody else</p> <p>3 tell you why it was necessary to make things gel</p> <p>4 up?</p> <p>5 A Me using the term gel up was my</p> <p>6 terminology.</p> <p>7 Q I understand. What did you mean by</p> <p>8 that term?</p> <p>9 A Make sure the story is consistent for</p> <p>10 fairness to the team member.</p> <p>11 Q So fairness to the Team Member would be</p> <p>12 a paramount? Fairness to Mr. Dees would be a</p> <p>13 paramount concern?</p> <p>14 A To team relations and for HMMA Team</p> <p>15 Members in general. People need to be treated</p> <p>16 fair and equal.</p> <p>17 Q Right. And you're not on any</p> <p>18 medication or anything now, are you?</p> <p>19 A No. I've got asthma. Sometimes I take</p> <p>20 albuterol.</p> <p>21 Q All right. Well, there's no reason why</p> <p>22 you cannot testify truthfully today?</p> <p>23 A Correct.</p> <p style="text-align: right;">30</p>	<p>1 responsibility is when I'm on day shift as the</p> <p>2 manager where I'm responsible for both shifts.</p> <p>3 At that time, I was filling in that position for</p> <p>4 assistant manager on night shift.</p> <p>5 Q Who was that?</p> <p>6 A Mr. Rick Harvey, which he resigned and</p> <p>7 moved to a job out in Arizona.</p> <p>8 Q And do you know a Mr. Prater?</p> <p>9 A Yeah, I know Mr. Prater.</p> <p>10 Q What was his job that evening?</p> <p>11 A He was not there that time of night.</p> <p>12 He works day shift as assistant manager over</p> <p>13 Stamping Maintenance.</p> <p>14 Q All right. Was he Mr. Dees' usual</p> <p>15 superior or supervisor?</p> <p>16 A That was his usual supervisor, yes.</p> <p>17 Other than the fact of his Team Leader, Kevin</p> <p>18 Hughes, which he reports to on his shift.</p> <p>19 Q Were you given an orientation when you</p> <p>20 went to work for HMMA?</p> <p>21 A Yeah. Two-week orientation.</p> <p>22 Q What did that cover?</p> <p>23 A It covers benefits as far as your</p> <p style="text-align: right;">32</p>

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<p>1 dental, eye, health, and your different 2 coverages, deductible. You had an introduction 3 to Team Relations. You had an introduction to 4 all the heads of departments and what their 5 functions and responsibilities were for each 6 department. And then Safety and Payroll and 7 Team Relations.</p> <p>8 Q This was a two-week orientation? 9 A Yeah.</p> <p>10 Q And I'm going to -- your counsel has 11 given us your personnel file. I'm going to mark 12 that as Exhibit 14. Do you have access to your 13 personnel file? 14 A I guess I would. I mean, I've never 15 went up and asked them for anything. 16 17 (Whereupon, Plaintiff's Exhibit 18 Number 14 was marked for identification 19 and copy of same is attached hereto.) 20 21 Q I'm going to mark the entire thing as 22 Exhibit 14. They've got some numbers at the 23 bottom of the page. We'll just refer to those</p> <p style="text-align: right;">33</p>	<p>1 257, it has a notice to applicant down at the 2 bottom of the page. Did you read that? 3 A The Applicant Notice? 4 Q Right. 5 A Yes, sir. 6 Q Do you know what that means? 7 A Yeah. 8 Q What does it mean? 9 A HMMA endorses the EEO requirements, 10 equal employment opportunities for people, and 11 doesn't place any discrimination on whatever 12 your status is in regards to your background. 13 Q All right. And then on the second 14 page, Bates number 257, about a third of the way 15 down, it says do you know of any reason why you 16 would not be able to perform the various 17 functions of the job you're seeking. See that? 18 A Yeah. 19 Q And you checked off no? 20 A Right. 21 Q Did you know what jobs you were seeking 22 at the time? 23 A At the time, I had had a recruiter that</p> <p style="text-align: right;">35</p>
<p>1 for easy reference. And your employment 2 application in there begins at number 257. 3 Would you turn to that? 4 A 257. Okay. 5 Q And I believe it goes from 257 to 260. 6 Would you check those four pages and tell me if 7 that's your employment application? 8 A (Witness reviews document.) Yeah. 9 Q That's it? 10 A Yeah. 11 Q And it looks like on Certification on 12 last page it says right above your signature -- 13 I'll just paraphrase. It just says everything 14 on here is true and correct. Would that be a 15 true statement? 16 A Yes, sir. 17 Q And then it also said any material 18 omissions and misstatements are grounds for 19 termination? 20 A Yeah. 21 Q You understood that? 22 A Yeah. 23 Q And then if you flip to the first page,</p> <p style="text-align: right;">34</p>	<p>1 contacted me. I had graduated with my Master's 2 Degree and I was interested in pursuing other 3 opportunities, because at the time, General 4 Motors was actually doing salary freezes, 5 overtime freezes and there really wasn't much 6 opportunity to pursue a better career, better 7 profession. So this recruiter contacted me and 8 disclosed a position opening to me at Hyundai. 9 And at that time, it was assistant manager 10 position open in the Stamping Weld Shop. And 11 after I went for the first interview, everything 12 went extremely well. I came in for the second 13 interview, and it went extremely well, also. 14 And they actually offered me the Stamping 15 Manager's position because of my background of 16 experience and the satisfaction of the 17 interviews. 18 Q And you were hired into that position? 19 A Yes, sir. 20 Q So you've held the same position from 21 start to now? 22 A Correct. 23 Q So you were actually hired into a</p> <p style="text-align: right;">36</p>

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<p>1 management position and still maintain that now?</p> <p>2 A Correct.</p> <p>3 Q And look at number 270. That's</p> <p>4 Acknowledgment of Sexual Harassment Prevention</p> <p>5 Training. It's got a checklist of things that</p> <p>6 you've received.</p> <p>7 A 270?</p> <p>8 Q 270. You signed that?</p> <p>9 A Correct.</p> <p>10 Q And it looks like, for instance, you</p> <p>11 viewed a videotape called Sexual Harassment.</p> <p>12 That's number 3.</p> <p>13 A Yeah.</p> <p>14 Q And you reviewed -- for instance,</p> <p>15 number 8, it says I have received and reviewed a</p> <p>16 copy of HMMA's Serious Misconduct Policy.</p> <p>17 A Yes.</p> <p>18 Q Do you know what the Serious Misconduct</p> <p>19 Policy is?</p> <p>20 A It depends on the circumstances of what</p> <p>21 the employee had done as far as the Serious</p> <p>22 Misconduct Policy applying to them. I don't</p> <p>23 have it memorized verbatim in my head.</p> <p style="text-align: right;">37</p>	<p>1 A Yeah.</p> <p>2 Q All right. Is there anything unclear</p> <p>3 about your testimony so far?</p> <p>4 A No.</p> <p>5 Q Now, Exhibit 15, is that a copy of a</p> <p>6 manual that you would have received, knowing</p> <p>7 that this may not be the exact piece of paper</p> <p>8 that you got?</p> <p>9 A Yeah, this is a Team Member Handbook</p> <p>10 that's been handed out to myself and all the</p> <p>11 Team Members in the plant.</p> <p>12 Q Do you still have your copy?</p> <p>13 A I handed it out to one of my assistant</p> <p>14 managers. He borrowed it right before I went on</p> <p>15 Thanksgiving holiday, and I'm not sure if he</p> <p>16 returned it because I haven't looked for it back</p> <p>17 on my desk.</p> <p>18 Q But you do have a copy when it's not</p> <p>19 loaned out to somebody else?</p> <p>20 A Yes.</p> <p>21 Q And you understand this is the rules</p> <p>22 and regulations of Hyundai with regard to the</p> <p>23 employees?</p> <p style="text-align: right;">39</p>
<p>1 (Whereupon, Plaintiff's Exhibit</p> <p>2 Number 15 was marked for identification</p> <p>3 and copy of same is attached hereto.)</p> <p>4</p> <p>5</p> <p>6 Q I'm going to mark Exhibit Number 15, a</p> <p>7 copy of a manual called Team Member Handbook,</p> <p>8 and have you take a look at that and see if that</p> <p>9 is something that you received and reviewed.</p> <p>10 A Yes, I have a copy of this.</p> <p>11 Q What did you write down there?</p> <p>12 A Exhibit number.</p> <p>13 Q Exhibit number?</p> <p>14 A Right.</p> <p>15 Q Can I see those notes you're writing</p> <p>16 down?</p> <p>17 A (Witness complied.)</p> <p>18 Q What's the purpose of you keeping your</p> <p>19 own notes in the deposition?</p> <p>20 A Clarity for my own self-purpose.</p> <p>21 Q What self-purpose would that be?</p> <p>22 A Clarity.</p> <p>23 Q For you?</p> <p style="text-align: right;">38</p>	<p>1 A Yes.</p> <p>2 Q And there's a section in here on</p> <p>3 serious misconduct, I believe, isn't it?</p> <p>4 A Yes, there is. It's under Disciplinary</p> <p>5 section.</p> <p>6 Q And take a look at page 36.</p> <p>7 MR. JOHNSON: Do y'all have an extra</p> <p>8 one?</p> <p>9 MR. KILBORN: I don't but I think it's</p> <p>10 produced.</p> <p>11 Q Serious misconduct starts at the bottom</p> <p>12 of 33 and you go over to page 34, and toward the</p> <p>13 middle and lower part of the document it's got</p> <p>14 listed below are some examples of activities</p> <p>15 that statute serious misconduct at HMMA. You</p> <p>16 see that?</p> <p>17 A Yes, sir.</p> <p>18 Q Are you familiar with those?</p> <p>19 A Like I say, I don't have all of them</p> <p>20 exactly memorized, but if I have something in</p> <p>21 question, that's why we have the handbook for a</p> <p>22 reference tool.</p> <p>23 Q Well, you had to read it and</p> <p style="text-align: right;">40</p>

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<p>1 acknowledge what it said in the beginning, 2 didn't you? 3 A Correct. 4 Q Did you have any questions about these 5 rules? 6 A No, sir. 7 Q And serious misconduct can result in 8 termination, can it not? 9 A It can. 10 Q Okay. All right. And, for instance, 11 the first bullet point under the list it says 12 serious and/or excessive violations of HMMA's 13 attendance program. You see that? 14 A Yes, sir. 15 Q The second bullet point says serious 16 and/or excessive violations of HMMA's 17 performance standards. You see that? 18 A Yes, sir. 19 Q It goes on. It's got quite a few 20 bullet points. Which of these bullet points did 21 Mr. Dees violate? 22 MR. JOHNSON: Object to the form of the 23 question. Are you asking for -- if he knows for</p> <p style="text-align: right;">41</p>	<p>1 Q Okay. 2 A The second or third one from the 3 bottom. 4 Q Okay. Which other one? 5 A Deliberately using unsafe work 6 practices that might seriously jeopardize the 7 health and safety of the Team Member. 8 Q How did Mr. Dees deliberately use 9 unsafe work practice that might seriously 10 jeopardize the health and safety of the Team 11 Member or a fellow Team Member? 12 A Jeopardizing his own health and safety 13 by sleeping in an area that's considered 14 dangerous. 15 Q How is it considered dangerous? 16 A Because of the moving panels. You have 17 moving sheet steel that moves around the area. 18 And being in a state of not being aware of your 19 surroundings, he could easily put himself in a 20 state of jeopardy to cut himself or get himself 21 hurt. 22 Q So your opinion is Mr. Dees 23 deliberately put himself in a dangerous</p> <p style="text-align: right;">43</p>
<p>1 sure, or are you asking what his opinions are? 2 MR. KILBORN: My question will just 3 stand like it is. 4 MR. JOHNSON: Okay. Object to the 5 form. 6 A (Witness reviews document.) Basically 7 in the condition in which he was in the bullet 8 insubordination, including with failing to 9 perform assigned work and deliberately 10 performing unsafe work practices. 11 Q Why don't you just take this black felt 12 pen or take your own pen there and just circle 13 the ones that you saw Mr. Dees violate? 14 A (Witness complied.) 15 Q Would you put your initials and today's 16 date by that? 17 A (Witness complied.) 18 Q All right. So we all know since we 19 don't all have copies. Would you read for us 20 both of those so we can markup our copies? 21 A Insubordination, including refusing to 22 perform assigned work or refusing to follow 23 direction of HMMA. Deliberately --</p> <p style="text-align: right;">42</p>	<p>1 situation where he himself might get hurt? 2 A Yes. 3 Q Go back up to the one you marked first, 4 insubordination. Tell me how Mr. Dees was 5 guilty of insubordination as outlined in that 6 bullet point. 7 A He wasn't performing work. He was off 8 his -- lunch period time off in a concealed area 9 asleep. 10 Q Okay. Concealed area? 11 A That's not -- in a hidden area. That's 12 not a trafficked area. There was no problems at 13 the time with the SOP system. 14 Q How did you know that? 15 A Because I was up there. 16 Q And that's why you were up there? 17 A I was up there checking quality 18 problems. 19 Q Quality problems? 20 A Yeah. Quality problems on the CM side 21 outer panel. 22 Q What were the quality problems you were 23 checking?</p> <p style="text-align: right;">44</p>

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<p>1 A For wrinkles and splits on the panel.</p> <p>2 Q Did you have some suspicion that there</p> <p>3 were quality problems?</p> <p>4 A Yeah.</p> <p>5 Q What made that occur to you?</p> <p>6 A We got a call from the Quality</p> <p>7 Department, the Weld Shop, and they had told us</p> <p>8 they'd seen some problems with it. The other</p> <p>9 piece was we had the die back in the shop being</p> <p>10 worked on. We had to bring it back up. We ran</p> <p>11 very close to running the Body Shop out of</p> <p>12 parts. So we had to put the job back in the</p> <p>13 press quickly to get parts to the Weld Shop, and</p> <p>14 we had to check the quality on them quickly also</p> <p>15 to make sure we weren't going to jeopardize the</p> <p>16 customer in shutting down production at the Weld</p> <p>17 Shop.</p> <p>18 Q And do you agree with the fact that</p> <p>19 Mr. Dees should have been terminated for</p> <p>20 violating these two bullet points, Serious</p> <p>21 Misconduct Policies?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 A For any employee taking their own time</p> <p style="text-align: right;">45</p>	<p>1 Now, the part of it that I was not was</p> <p>2 not under the influence on HMMA property.</p> <p>3 Q Well, did you violate that policy you</p> <p>4 just read or not?</p> <p>5 A I don't actually know the policy of</p> <p>6 that, but I know I failed a urine exam when I</p> <p>7 went up to Medical after I had been cut. I had</p> <p>8 been cut through my glove when I was helping</p> <p>9 some Team Members pull some scrap out of the</p> <p>10 scrap shoot. I went to Medical to be treated</p> <p>11 for the laceration I received on my hand, and</p> <p>12 it's protocol for safety incidents to be drug</p> <p>13 tested.</p> <p>14 Q So you got caught with drugs?</p> <p>15 MR. JOHNSON: Object to the form.</p> <p>16 A I had shown up positive in the urine</p> <p>17 sample.</p> <p>18 Q But you didn't expect to be caught, did</p> <p>19 you?</p> <p>20 A I didn't think about it because of the</p> <p>21 time of when the incident happened I had been at</p> <p>22 a party and drinking alcohol.</p> <p>23 Q You got caught?</p> <p style="text-align: right;">47</p>
<p>1 and not being -- performing the regular job task</p> <p>2 and sleeping on the job, I do have a problem</p> <p>3 with that. I do believe that's a problem</p> <p>4 conflicting with company policy.</p> <p>5 Q So you believe he should have been</p> <p>6 terminated?</p> <p>7 A Yes.</p> <p>8 Q So you agree with that?</p> <p>9 A Yes.</p> <p>10 Q And how many of these serious</p> <p>11 misconduct policies on page 34 and 35 have you</p> <p>12 yourself violated?</p> <p>13 A One of them.</p> <p>14 Q Which one is that?</p> <p>15 A The use of -- use of illegal drugs.</p> <p>16 Q Would you read for us that willful</p> <p>17 misconduct that you yourself violated?</p> <p>18 A Use or possession, sale, transfer or</p> <p>19 being under the influence of illegal drugs,</p> <p>20 alcohol, or other intoxicating substances at any</p> <p>21 time on HMMA property. Gifts of alcohol or</p> <p>22 coolers containing alcohol are prohibited at</p> <p>23 HMMA.</p> <p style="text-align: right;">46</p>	<p>1 A Showed up positive in the urine sample,</p> <p>2 yes.</p> <p>3 Q What about the alcohol? Did they catch</p> <p>4 you with that, too?</p> <p>5 A No.</p> <p>6 Q Did you tell them you'd also been</p> <p>7 drinking alcohol?</p> <p>8 A On the weekend I had, that Saturday,</p> <p>9 but I wasn't at work.</p> <p>10 Q Did you tell them that?</p> <p>11 A Yeah, I disclosed that to the HR</p> <p>12 people, and then also I had to attend a</p> <p>13 substance abuse program -- alcohol and substance</p> <p>14 abuse program for condition of employment.</p> <p>15 Q What was the date you got caught?</p> <p>16 A March the 24th or 5th or 6th somewhere</p> <p>17 in there. Towards the last week of March.</p> <p>18 Q 2007?</p> <p>19 A Yes, sir.</p> <p>20 Q So what happened? You were the</p> <p>21 Stamping Plant manager at that time?</p> <p>22 A Yeah.</p> <p>23 Q In charge of 30 people?</p> <p style="text-align: right;">48</p>

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1 A Yeah. As the manager, I'd be in charge
2 of the whole department then, but at that time,
3 I was just in charge of night shift. That would
4 be correct.

5 Q How many people on the night shift
6 would you be in charge of?

7 A Night shift is 30 people. But the
8 department as a whole is around 80 people.

9 Q And you were in charge of the night
10 shift then?

11 A Right.

12 Q But you're also in charge of the whole
13 department?

14 A Normally.

15 Q Normally. So that would be 80 people?

16 A Correct.

17 Q And you would be in charge of the
18 safety of those 80 people?

19 A Correct.

20 Q So you showed up on the job with
21 cocaine in your system and alcohol in your
22 system and in charge of the safety of 30 people
23 in Stamping Plant?

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1 Q Knew what it would do to the human
2 brain?

3 A Yes, sir.

4 Q Knew what it would do to your brain?

5 MR. JOHNSON: Object to the form.

6 Q Is that correct?

7 A I knew the feeling.

8 Q Right. Well, you knew it was -- it's a
9 brain-altering substance, didn't you?

10 MR. JOHNSON: Object to the form.

11 A I know what the feeling is.

12 Q Well, you know it's a mind-altering
13 substance, don't you, Mr. Brookshire?

14 MR. JOHNSON: Object to the form.

15 Q You can answer me.

16 A I already have.

17 Q Well, you say you knew what it felt
18 like. I want to know did you know what it does
19 to the brain.

20 A I had done classes on it. I've had
21 classes on it back in high school, Health and
22 Science classes.

23 Q So you knew it was an illegal drug;

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1 MR. JOHNSON: Object to the form.

2 A I tested positive for -- on a drug
3 test, not alcohol.

4 Q Well, but you had been using alcohol?

5 A On the weekend when I wasn't at the
6 plant. Correct.

7 Q Well, you said it. I just want to find
8 out about it. You had been using alcohol and
9 you'd been -- what did you do? Snort cocaine?

10 MR. JOHNSON: Object to the form.

11 A I had had a person at the party hand me
12 some out of their pocket.

13 Q Did you snort it?

14 A Yeah.

15 Q How did you know how to ingest it?

16 A During my younger, stupid days I had
17 messed around with it in my mid 20s.

18 Q So you used cocaine before?

19 A Yeah, my younger days I had.

20 Q You knew how to snort it?

21 A Yes, sir.

22 Q Knew what it was?

23 A Yes, sir.

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1 correct?

2 MR. JOHNSON: Object to the form.

3 A Correct.

4 Q And you knew it was a crime; correct?

5 MR. JOHNSON: Object to the form.

6 A Correct.

7 Q And you knew that it has serious long-
8 and short-term effects; correct?

9 MR. JOHNSON: Object to the form.

10 A I'm not an expert on that subject
11 matter. I couldn't tell you what the exact
12 long-term and short-term effects are on it.

13 Q I thought you said you took some course
14 or class on it?

15 A High school.

16 Q In high school. All right. Well, are
17 you on drug rehab now?

18 A No.

19 Q Were you ever on drug rehab?

20 A There was a three-week program,
21 substance abuse program.

22 Q When were you on that program?

23 A April, first part of May. Three

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<p>1 weeks. It's a three-week program.</p> <p>2 Q 2007?</p> <p>3 A Correct.</p> <p>4 Q Put on by who?</p> <p>5 A By the HR group. It's -- it was a</p> <p>6 condition of employment.</p> <p>7 Q You mean --</p> <p>8 A A successful completion.</p> <p>9 Q So it's Hyundai?</p> <p>10 A Correct.</p> <p>11 Q So you spent how many weeks in a</p> <p>12 Hyundai substance abuse program?</p> <p>13 A Three weeks.</p> <p>14 Q Three weeks. Did you get paid for</p> <p>15 going?</p> <p>16 A Yes.</p> <p>17 Q Did you go on company time?</p> <p>18 A I went on -- you get put on disability.</p> <p>19 Q So you were put on disability?</p> <p>20 A Correct.</p> <p>21 Q So you got paid as a disabled person?</p> <p>22 A However the program works. They call</p> <p>23 it -- however it works out. I don't know all</p> <p style="text-align: right;">53</p>	<p>1</p> <p>2 Q Turn back if you would to the Team</p> <p>3 Member Handbook. That's Exhibit 15. We were</p> <p>4 looking at that earlier. Page 34. That's that</p> <p>5 little list of serious misconduct. How about</p> <p>6 circling that one that you say you violated and</p> <p>7 put your name and your initials?</p> <p>8 A (Witness complied.)</p> <p>9 Q Have you done that?</p> <p>10 A Yeah.</p> <p>11 Q Okay. So you said you had abused</p> <p>12 cocaine early on in life?</p> <p>13 A Yeah.</p> <p>14 Q Over what period of time?</p> <p>15 A Mid 20s. Between 24 and 26, 27.</p> <p>16 Somewhere around there.</p> <p>17 Q And then you're 35 now?</p> <p>18 A Excuse me?</p> <p>19 Q How old are you now?</p> <p>20 A 35.</p> <p>21 Q 35. And where was this party you were</p> <p>22 at?</p> <p>23 A Place over in Prattville.</p> <p style="text-align: right;">55</p>
<p>1 the stipulations.</p> <p>2 Q What were you told?</p> <p>3 A That I had to complete a successful --</p> <p>4 how do I put it -- I had to complete the program</p> <p>5 successfully to maintain my job, and then I</p> <p>6 would be monitored for two years after at random</p> <p>7 drug and alcohol screens. And at any point in</p> <p>8 time if I tested positive on either one of</p> <p>9 those, I would meet immediate termination of my</p> <p>10 employment.</p> <p>11 Q So were you -- you were still employed</p> <p>12 while you were on this Hyundai substance abuse</p> <p>13 program?</p> <p>14 A Correct.</p> <p>15 Q But you didn't receive your regular</p> <p>16 salary, you received disability?</p> <p>17 A Correct. That was my -- I didn't look</p> <p>18 into all that, so I don't know how all that</p> <p>19 works out but I was paid while I was gone.</p> <p>20 Q All right.</p> <p>21</p> <p>22 (Whereupon, a discussion was held off the</p> <p>23 Record.)</p> <p style="text-align: right;">54</p>	<p>1 Q Prattville. Whose house?</p> <p>2 A Hector.</p> <p>3 Q What's the name?</p> <p>4 A Hector.</p> <p>5 Q Hector. What's the full name?</p> <p>6 A Hector. I can't remember his last</p> <p>7 name. My wife -- my stepdaughter is good</p> <p>8 friends their daughter, and that's why we were</p> <p>9 over there. I believe his name is Hector Gomez,</p> <p>10 I think.</p> <p>11 Q You didn't know Hector Gomez?</p> <p>12 A I knew him, yes.</p> <p>13 Q You knew him. It must have been a</p> <p>14 pretty fun party, huh?</p> <p>15 MR. JOHNSON: Object to the form.</p> <p>16 A It was just a party.</p> <p>17 Q All right. So it was just a party. So</p> <p>18 you were drinking alcohol and snorting cocaine</p> <p>19 at this party; is that correct?</p> <p>20 A Yeah.</p> <p>21 Q Did you cut it yourself?</p> <p>22 A No.</p> <p>23 Q Who cut it?</p> <p style="text-align: right;">56</p>

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<p>1 A A guy that I didn't know.</p> <p>2 Q Did you pay for it?</p> <p>3 A I didn't know the guy. No.</p> <p>4 Q It was given to you?</p> <p>5 A Yeah. He had one of those little --</p> <p>6 little things that's already cut up in there and</p> <p>7 they carry it around in a vial. He just...</p> <p>8 Q You had seen that before?</p> <p>9 A Yeah.</p> <p>10 Q Have you used that before?</p> <p>11 A Yeah, I have.</p> <p>12 Q I've looked up how cocaine works. One</p> <p>13 of the descriptions that I found, I'm going to</p> <p>14 read it to you. See if you agree with it. It</p> <p>15 causes initially euphoria and a sense of buoyant</p> <p>16 well-being marked by a feeling of complete</p> <p>17 self-confidence, as well as pleasant</p> <p>18 hallucinations, visual and auditory. The peak</p> <p>19 lift lasts only briefly, however, only 15 to 30</p> <p>20 minutes. Although, lesser effects last up to</p> <p>21 two to four hours. Do you know that that's what</p> <p>22 it does?</p> <p>23 A Euphoria. I've experienced that with</p> <p style="text-align: right;">57</p>	<p>1 is a stimulant. I mean, you're almost leveled</p> <p>2 out.</p> <p>3 Q So you felt leveled out?</p> <p>4 A (Witness nods head.)</p> <p>5 Q Is that correct?</p> <p>6 A Yeah.</p> <p>7 Q All right. And did you know -- how did</p> <p>8 you know that the alcohol and cocaine had that</p> <p>9 effect?</p> <p>10 A I told you. I had had experience with</p> <p>11 both of them in the past.</p> <p>12 Q So you'd actually done both of them in</p> <p>13 the past together?</p> <p>14 A I have before, yes.</p> <p>15 Q So sometimes you'd snort cocaine and</p> <p>16 use the alcohol to level it out; sometimes you'd</p> <p>17 use the alcohol and use the cocaine to level it</p> <p>18 out?</p> <p>19 MR. JOHNSON: Object to the form.</p> <p>20 Q Isn't that right?</p> <p>21 A I guess.</p> <p>22 Q Well, don't guess. Tell me. What's</p> <p>23 the truth?</p> <p style="text-align: right;">59</p>
<p>1 it, but not hallucinations.</p> <p>2 Q So you would be immune to that type of</p> <p>3 effect?</p> <p>4 MR. JOHNSON: Object to the form.</p> <p>5 Q Is that correct?</p> <p>6 A I don't know if anybody is immune to</p> <p>7 anything. But I can just tell you what I've</p> <p>8 experienced with it.</p> <p>9 Q How many other people were there</p> <p>10 snorting cocaine?</p> <p>11 A I just know about myself and the other</p> <p>12 guy that had given me some. I don't know who</p> <p>13 else.</p> <p>14 Q And you were drinking alcohol at the</p> <p>15 same time?</p> <p>16 A Yes, sir.</p> <p>17 Q What's the effect of alcohol combined</p> <p>18 with cocaine?</p> <p>19 MR. JOHNSON: Object to the form.</p> <p>20 A I'm not an expert on that. I mean, I</p> <p>21 can tell you how I felt.</p> <p>22 Q Yeah. How did you feel?</p> <p>23 A The alcohol is a depressant. Cocaine</p> <p style="text-align: right;">58</p>	<p>1 A That's what I had done at the time.</p> <p>2 Q And what time was this party over?</p> <p>3 A Probably around 11 or 12.</p> <p>4 Q Midnight?</p> <p>5 A Probably around there.</p> <p>6 Q And what time did you go to work?</p> <p>7 A I didn't go to work until that Monday.</p> <p>8 That was Saturday night.</p> <p>9 Q Saturday night. So you didn't know</p> <p>10 whether or not the cocaine was still in your</p> <p>11 system, did you?</p> <p>12 A No. Obviously if I knew that I had</p> <p>13 done it and done a lot of it, I wouldn't have</p> <p>14 even went to the hospital to get -- because I</p> <p>15 know it's a known protocol to get drug tested.</p> <p>16 Q What was that?</p> <p>17 A I said obviously if I knew that I had</p> <p>18 done a lot of it and intentionally done it, I</p> <p>19 wouldn't have even went up to the hospital to</p> <p>20 get treatment for my cut.</p> <p>21 Q So when you cut yourself, you knew</p> <p>22 that you were going to get drug tested, didn't</p> <p>23 you?</p> <p style="text-align: right;">60</p>

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1 A Yeah.
 2 Q Why didn't you just fess up before they
 3 found it?
 4 A Because I didn't acknowledge it because
 5 of the state I was in in intoxication and
 6 drinking alcohol.
 7 Q You were still intoxicated?
 8 A No. Not at that time, no. But at the
 9 time I had done the cocaine I had been.
 10 Q All right. And there's various
 11 nicknames for this stuff. Which one do you use?
 12 A I just call it coke.
 13 Q Coke. Have you ever heard it referred
 14 to as flake or free base or lady or nose candy
 15 or rock snow or anything like that?
 16 A I've heard it called snow before, but
 17 that's about it.
 18 Q How about big C?
 19 A Huh-uh.
 20 Q How about blow?
 21 A I have heard of that because I've seen
 22 a movie called Blow.
 23 Q Okay. Before you went on this Hyundai

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1 A Like I said, I knowingly didn't think
 2 it was in me.
 3 Q You wouldn't have volunteered it, would
 4 you?
 5 A No.
 6 Q How about a hair sample? Did they take
 7 a hair sample?
 8 A They didn't take one.
 9 Q Did somebody else take one?
 10 A Did somebody...
 11 Q You can take hair samples and find out
 12 about cocaine use, too, can't you?
 13 A I don't know. I know you can find it
 14 in urine, and I understand that you can find it
 15 in blood but I don't know about hair.
 16 Q Well, I was giving you what I thought
 17 was your whole personnel file. Why isn't this
 18 drug test in your personnel tile?
 19 A Why what?
 20 Q I don't see the drug test, the urine
 21 test in personnel file. Why isn't it in there?
 22 A I couldn't answer. I'm guessing they
 23 probably keep that in Medical Department or

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1 drug treatment program, had you ever been on any
 2 other drug treatment programs?
 3 A No.
 4 Q And with cocaine in your system and
 5 managing 30 people that day you don't feel like
 6 you had created an unsafe work practice?
 7 MR. JOHNSON: Object to the form.
 8 A It wasn't in my system at work. I
 9 wasn't at work.
 10 Q Well, it was in your system because
 11 they found it on the job, didn't they?
 12 A I tested positive in urine, but I
 13 wasn't knowingly taking it at work or going to
 14 work taking it.
 15 Q So it was in your urine; correct?
 16 A Correct.
 17 Q Well, why did they take a urine sample
 18 if all you came in there for was a cut?
 19 A It's protocol for every safety incident
 20 to be drug tested.
 21 Q And if they hadn't found it in your
 22 urine sample, you wouldn't have volunteered it,
 23 would you?

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1 Teams Relations keeps it. I'm not sure.
 2 Q Did the 30 people under your
 3 supervision while you had cocaine in your
 4 system -- did they know that you had cocaine in
 5 your system?
 6 MR. JOHNSON: Object to the form.
 7 A No.
 8 Q You think they would have entrusted you
 9 with their safety if they had known you had
 10 cocaine in your system?
 11 MR. JOHNSON: Object to the form.
 12 A I'm not sure. I can't answer that for
 13 them.
 14 Q Well, would you trust somebody
 15 supervising you in a dangerous plant like that
 16 with cocaine in their system?
 17 MR. JOHNSON: Object to the form.
 18 A I can't -- I mean, I know how I had
 19 felt when I was on it. I can't -- I can't...
 20 Q So are you -- you made a medical
 21 determination that you weren't affected by this
 22 cocaine and that's why you went to work?
 23 MR. JOHNSON: Object to the form.

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<p>1 A No.</p> <p>2 Q Well, why did you go to work with this</p> <p>3 stuff in your system?</p> <p>4 MR. JOHNSON: Object to the form.</p> <p>5 A Because I knowingly wasn't -- obviously</p> <p>6 the urine sample tested positive. But you</p> <p>7 yourself just read that the effects last how</p> <p>8 long?</p> <p>9 Q Well, I just read the short-term</p> <p>10 effects. Do you want me to read you the</p> <p>11 long-term effects?</p> <p>12 A That's with how much usage?</p> <p>13 Q Well, what are the long-term effects?</p> <p>14 You've been through the program. Did you learn</p> <p>15 what they are?</p> <p>16 MR. JOHNSON: Object to the form.</p> <p>17 Q Tell me what you learned.</p> <p>18 A With serious usage and consumption, you</p> <p>19 will have problems down the road with lower</p> <p>20 dopamine samples in your brain internally.</p> <p>21 Q Okay. Well, other than lower dopamine,</p> <p>22 what other long-term effects are there?</p> <p>23 A Depression.</p> <p style="text-align: right;">65</p>	<p>1 Q So you took the risk with your safety</p> <p>2 and the safety of your fellow workers that some</p> <p>3 of those effects might take place, didn't you?</p> <p>4 MR. JOHNSON: Object to the form.</p> <p>5 A At the time when I was under it, that</p> <p>6 was the short-term side effects.</p> <p>7 Q How do you know you haven't suffered</p> <p>8 long-term side effects?</p> <p>9 A I'm not a medical expert. I can't</p> <p>10 justify that. But I know in the past -- from</p> <p>11 what I understand of that class after you</p> <p>12 discontinue use of it, your dopamine levels will</p> <p>13 come back and level out and your mindset is</p> <p>14 normal.</p> <p>15 Q But you didn't know that at the time</p> <p>16 you got caught, did you?</p> <p>17 A No.</p> <p>18 Q And you think showing up at work with</p> <p>19 cocaine in your system is not near as bad as</p> <p>20 sleeping on the job, is it?</p> <p>21 MR. JOHNSON: Object to the form.</p> <p>22 A I can't -- I can't answer that one.</p> <p>23 Q Well, you're a manager. What do you</p> <p style="text-align: right;">67</p>
<p>1 Q So you've never suffered anything like</p> <p>2 rapid heartbeat?</p> <p>3 A Instantaneously you do.</p> <p>4 Q How about rapid breathing?</p> <p>5 A Instantaneously you do.</p> <p>6 Q How about soaring blood pressure?</p> <p>7 A Instantaneously.</p> <p>8 Q How about palpitations?</p> <p>9 A I don't know about that one.</p> <p>10 Q Sweating?</p> <p>11 A Yeah.</p> <p>12 Q Severe headache?</p> <p>13 A No.</p> <p>14 Q Pallor?</p> <p>15 A What's that?</p> <p>16 Q Pale. You haven't ever suffered that?</p> <p>17 A Huh-uh.</p> <p>18 Q And you do know that use of cocaine can</p> <p>19 sometimes result in heart failure and death,</p> <p>20 don't you?</p> <p>21 MR. JOHNSON: Object to the form.</p> <p>22 A My understanding taking of that class</p> <p>23 in mass quantities it can.</p> <p style="text-align: right;">66</p>	<p>1 think?</p> <p>2 A To me, it would depend on if the person</p> <p>3 just done it or if they'd been off of it for a</p> <p>4 couple of days. To me, there's a big</p> <p>5 difference. There's the quick effects and the</p> <p>6 long-term effects. The quick effects, I</p> <p>7 wouldn't trust somebody at work. Just like with</p> <p>8 alcohol or somebody experiences problems and</p> <p>9 uncontrolled states and drinking excessive</p> <p>10 amounts of coffee and caffeine.</p> <p>11 Q So you equate cocaine usage to drinking</p> <p>12 coffee?</p> <p>13 A If I drink two or three cups of coffee</p> <p>14 and did a snort of that, yeah, I would.</p> <p>15 Q Have you ever heard of a Hyundai coffee</p> <p>16 abuse program?</p> <p>17 A No, they don't do that because coffee</p> <p>18 is legal.</p> <p>19 Q Have you ever served any time in prison</p> <p>20 for this cocaine habit?</p> <p>21 A No, sir.</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 Q Did Hyundai report you to law</p> <p style="text-align: right;">68</p>

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1 enforcement?

2 A I have no idea.

3 **Q Have you ever bought the cocaine?**

4 A In the past when I was younger, I --

5 MR. JOHNSON: Just a second.

6 Obviously, object to the form of the question.

7 I'm not sure it's relevant here. But

8 additionally to the extent that I don't want him

9 to make any statements that might get him into
10 criminal jeopardy.

11 MR. KILBORN: Well, he can take the
12 Fifth Amendment. But I want to know the answer

13 to that question. This is the eye witness to

14 this case who has been caught red handed using

15 cocaine, showed up at the Hyundai plant with it

16 in his system in a managerial position, given a

17 pass, wasn't terminated, around the time that

18 these incidents occurred. I want to go into

19 that. I think it's a credibility issue.

20 MR. JOHNSON: And I understand your

21 point. However -- and we've allowed him to

22 testify fully about his cocaine usage and you've

23 asked him plenty of questions about what

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1 cocaine?

2 MR. JOHNSON: Again, same response

3 there. My advice is that he not answer. He

4 pleads the Fifth Amendment and is not answering.

5 **Q Have you ever had possession of drug**

6 **paraphernalia?**

7 MR. JOHNSON: Again, same response to

8 that issue.

9 **Q Are you taking the Fifth Amendment on**
10 **that, too?**

11 A Yes.

12 **Q Well, you committed a felony, right,**
13 **prior to showing up at work, didn't you?**

14 MR. JOHNSON: Object to the form. And
15 same response to that question.

16 **Q You take the Fifth Amendment on that?**

17 A Yes.

18 **Q Well, don't you think commission of a**
19 **felony would be willful misconduct under**
20 **anybody's definition?**

21 MR. JOHNSON: Object to the form.

22 A I think that condition lies within the

23 company's policies. That's not something that I

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1 happened at work. But beyond that, I see no
2 relevance, and I can't imagine anything -- I'm
3 not a criminal lawyer, and my recommendation to
4 him is to seek criminal counsel if he's going to
5 testify beyond what he's already testified to.

6 MR. SPORT: Well, he indicated he was
7 represented by counsel today, so direct him not
8 to answer.

9 MR. JOHNSON: Well, then, I direct him
10 not to answer that question.

11 MR. KILBORN: Well, I'm going to pursue
12 this. You can direct him not to answer.

13 **Q Are you refusing to answer whether or**
14 **not you have ever purchased cocaine?**

15 MR. JOHNSON: Under my advice, he is.

16 **Q All right. Have you ever sold cocaine?**

17 MR. JOHNSON: Again, we would also --
18 my advice is that he not answer that and he will
19 not answer that.

20 MR. KILBORN: Is he taking the Fifth
21 Amendment?

22 MR. JOHNSON: Yes.

23 **Q Have you ever had possession of**

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1 solely determine myself.

2 **Q Well, you -- on your application we**
3 **reviewed a minute ago in Bates number 258, you**
4 **said on your application do you know of any**
5 **reason why you would not be able to perform**
6 **various functions of the job you're seeking**
7 **now. Wouldn't you agree that snorting cocaine**
8 **could impair you in performing your job?**

9 MR. JOHNSON: Object to the form.

10 A If I had deliberately done it right
11 before I went to work or during work, I would
12 agree with that.

13 **Q Suppose you had not deliberately done**
14 **it.**

15 A I think I would know if I had
16 deliberately done it or not right before I went
17 to work or not.

18 **Q Well, why didn't you reveal in this**
19 **application that you were basically a cocaine**
20 **abuser?**

21 MR. JOHNSON: Object to the form.

22 A At the time in which this application
23 was filled out, I wasn't. And to get a job at

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1 Hyundai, I had to take a drug test; hair test,
2 blood test, and urine.

3 **Q So you do know what a hair test is?**

4 **A** At that time they took it. But what
5 you asked me was if I knew if it showed up on it
6 or what it takes to show up on it. I don't
7 know.

8 **Q So you took a hair test, a blood test,
9 and a urine test?**

10 **A** Yeah.

11 **Q But you knew you were going to have to
12 take that; right?**

13 **A** I what?

14 **Q You knew to get a job you were going to
15 have to take that drug screen, didn't you?**

16 **A** Not necessarily. I know you've got to
17 take urine tests to get jobs.

18 **Q Well, you knew -- you'd consented to
19 taking a drug test on your application, didn't
20 you?**

21 **A** Right.

22 **Q So you knew they were going to test you
23 for cocaine and any other drug, didn't you?**

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1 **Q All right. So you made the judgment as
2 a manager that since you felt physically free of
3 the effects of cocaine you could go in there and
4 supervise 30 workers?**

5 **MR. JOHNSON:** Object to the form.

6 **Q Is that correct?**

7 **A** I felt confident in my physical
8 condition in which I appeared to work on Monday.

9 **Q Well, apparently, Hyundai didn't feel
10 confident in that, did they?**

11 **MR. JOHNSON:** Object to the form.

12 **A** They were following protocol for a
13 positive test on a urine sample.

14 **Q Well, do you know why Hyundai has got a
15 policy against drug usage?**

16 **A** I wouldn't be able to tell you all the
17 reasons why. I mean, I didn't make the policy
18 and I wouldn't be able to tell you what -- all
19 the reasons why.

20 **Q Well, tell me one reason why.**

21 **MR. JOHNSON:** Object to the form.

22 **A** Probably with deliberate or current
23 usage it probably would debilitate the judgment,

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1 **A** Yeah, I knew they was going to take a
2 urine test. Most jobs, places conditions of
3 employment do call for urine samples.

4 **Q So you knew full well not to use
5 cocaine before you did that?**

6 **A** I never knew what the actual period was
7 it stayed in your system until I took the class.

8 **Q Well, how do you know it didn't stay in
9 your system for a year if you didn't know before
10 you took the class?**

11 **A** I guess I wouldn't.

12 **Q How do you know it didn't stay in your
13 system for a week?**

14 **A** I guess I wouldn't.

15 **Q Well, how do you know it wouldn't stay
16 in your system for at least 48 hours?**

17 **A** (No response.)

18 **Q How do you know it wouldn't have stayed
19 in your system from the midnight you left the
20 party until the five a.m. when you showed up
21 Monday morning?**

22 **A** You just know the condition which you
23 feel physically at the time.

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1 activities, and reasoning of the individual.

2 **Q Well, this policy doesn't require
3 that. It just says if you're using drugs that's
4 a willful misconduct, doesn't it?**

5 **MR. JOHNSON:** Object to the form.

6 **Q Excuse me?**

7 **A** If that's the way it's worded, that's
8 the way it's worded.

9 **Q Now, let's turn to Bates number 282 of
10 your personnel file, Exhibit 14. That's a memo
11 from Wendy Warner to James Brookshire. That's
12 you. Have you ever seen that before?**

13 **A** Yeah, I signed that.

14 **Q It says management TM. Whose signature
15 is that?**

16 **A** Management TM. Oh, you mean Team
17 Relations rep?

18 **Q Well, MGMT TM. Whose signature is
19 that?**

20 **A** Are you talking about where it says
21 management TM REL?

22 **Q No. Right above that.**

23 **A** Management TM, Wendy Warner.

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19 (Pages 73 to 76)

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1 Q And then where it says management TM
2 REL, whose signature is that?

3 A Rob Clevenger.

4 Q He would be your superior?

5 A Team Relations Representative.

6 Q Okay.

7 A Same person that would represent
8 Mr. Dees. Well, him or William Ware.

9 Q So Mr. Clevenger has full knowledge of
10 your drug use?

11 A He knows -- he has knowledge of this
12 incident and violation of this policy.

13 MR. JOHNSON: Object to the form.

14 Q And so does Ms. Warner?

15 MR. JOHNSON: Object to the form.

16 A I presume.

17 Q What happened to you after this urine
18 test showed the presence of cocaine? What
19 happened to you after that?

20 A I was admitted to a program,
21 three-week -- well, they gave me the option of a
22 three-week program or a six-week program.

23 Q Were you told -- were you threatened

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1 to let me know that it was policy; that they
2 needed to follow protocol; that I either needed
3 to self-admit or they would admit me to a
4 program. And failure to complete or admit
5 myself to the program would end in termination
6 of employment.

7 Q Is this program on the premises of
8 Hyundai?

9 A No.

10 Q Where is it?

11 A It's -- I think they have a couple
12 different places, but the one I went to is
13 Alabama Psych.

14 Q Give me the name of that.

15 A I think they call it APS.

16 Q APS. And you attended that daily?

17 A Yeah, every day for three weeks.

18 Q All day?

19 A Yeah.

20 Q Where is it located?

21 A Carmichael Parkway.

22 Q In Prattville?

23 A Montgomery.

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1 with termination?

2 A If I did not complete the program --
3 did not submit myself to the program or complete
4 the program with success, then, yes, I would be
5 terminated.

6 Q And who told you that?

7 A That was told to me by Wendy.

8 Q And where was this meeting with
9 Ms. Warner?

10 A Up in HR.

11 Q In her office?

12 A Well, they've got conference rooms
13 along the wall there.

14 Q Was it a private conference room?

15 A Yeah.

16 Q Nobody else listening?

17 A Rob was there.

18 Q Rob Clevenger was there?

19 A Yeah.

20 Q Well, tell me what happened.

21 A They informed me that Medical had
22 contacted them and informed them of the status
23 or condition of my urine sample and they wanted

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1 Q And it's called APS?

2 A Yeah.

3 Q How many other people were in that
4 program?

5 A At the time I had started, there was
6 four other people, but they weren't from
7 Hyundai. They were other people in the program.

8 Q Right. And did you get drug screens
9 during that program?

10 A Oh, yeah.

11 Q Every day?

12 A It varied. They wouldn't tell you.

13 They wouldn't tell you. It would be in the
14 morning, in the afternoon, lunchtime.

15 Q Did you tell them about your alcohol
16 abuse?

17 A Yeah.

18 MR. JOHNSON: Object to the form.

19 A Yes, I did.

20 Q Is that a 12 Step program?

21 A Yeah.

22 Q And what step are you in right now?

23 A I had -- part of that program was I had

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1 to attend AA meetings as well and get signatures
2 from representatives of AA meetings.

3 **Q So you were simultaneously going to the**
4 **drug rehab program with APS as well as AA?**

5 A Yeah.

6 **Q And how did you end up in AA?**

7 A Because the position that was given by
8 my therapist and the psychiatric doctors that
9 were there, they had clinically diagnosed that
10 it wasn't a substance abuse problem that I
11 have. They had seen with the disposition of my
12 family in the past with my mother being an
13 alcoholic and my grandfather being an alcoholic
14 and -- and I had admitted to them that I would
15 drink on weekends but I did not drink during the
16 week while I was working. But I admitted it to
17 them. And they had ran me through, like I said,
18 with the psychiatrist and the therapist that's
19 what they deemed the most important thing was
20 for me to attend AA meetings.

21 **Q What was the name of the psychiatrist?**

22 A Dr. Shaw, I believe.

23 **Q Is he a medical doctor?**

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1 A That's part of their meetings. That's
2 part of their protocol. There's people there
3 that hadn't drank in ten years and they've still
4 got to stand up and say that.

5 **Q Well, you had to stand up and say that,**
6 **didn't you?**

7 A That would be correct.

8 **Q And you had to stand up and say that in**
9 **the drug abuse program, too, regarding drugs,**
10 **didn't you?**

11 MR. JOHNSON: Object to the form.

12 A What do you mean? Stand up in the drug
13 program?

14 **Q Well, you had to admit that you were**
15 **addicted to drugs, that's why you were there.**

16 A That wasn't the clinical analysis that
17 was done by the doctor or the therapist.

18 MR. JOHNSON: Object to the form.

19 **Q Did you stand up and admit that?**

20 A Admit what?

21 **Q That you were addicted to drugs?**

22 A No. I admitted I made a stupid
23 decision one night.

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1 A I don't know what -- all of his
2 classifications. I believe he was a
3 psychiatrist. I know that much.

4 **Q And what's the name of the therapist?**

5 A Jena Empey.

6 **Q E-M-B-Y?**

7 A E-M-P-Y.

8 **Q And what is she?**

9 A She's a licensed therapist. And I
10 don't know what all of her credentials were, but
11 she was a licensed therapist.

12 **Q And the first step in either the 12**
13 **point drug abuse program or the 12 point alcohol**
14 **abuse program is admission that you are addicted**
15 **to alcohol and/or drugs, isn't it?**

16 MR. JOHNSON: Object to the form.

17 A The AA meeting it was admitting that
18 alcohol could have control over your life.
19 Meaning that it can be a problem in your life.

20 **Q Well, you have to get up there and say**
21 **my name is Jim Brookshire and I'm an alcoholic.**
22 **You have to make that admission, don't you?**

23 MR. JOHNSON: Object to the form.

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1 **Q One night; right?**

2 A That would be correct.

3 **Q Okay. And let's go back to this Bates**
4 **number 282, Plaintiff's Exhibit 14. At the time**
5 **of this -- well, it says on March 27, 2001, HMMA**
6 **received confirmation as a result of your random**
7 **drug screen. When was the actual date that you**
8 **were caught?**

9 A It was somewhere around March the 25th,
10 26th. Somewhere right around there. I can't
11 remember. It was on a Tuesday or Wednesday.

12 **Q And it says in here that it's got four**
13 **conditions; is that correct?**

14 A Yeah.

15 **Q One, you had to attend a substance**
16 **abuse assessment session scheduled through**
17 **HMMA's Medical Clinic. Was that done?**

18 A Yes.

19 **Q Said you were required to comply with**
20 **all aspects of the prescribed rehab program.**
21 **Was that done?**

22 A Yeah.

23 **Q Said you must agree to allow HMMA**

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<p>1 Medical Clinic to monitor your progress and 2 communicate with the assessment and 3 rehabilitation provider. 4 A Yeah. 5 Q That was accomplished? 6 A Yeah. 7 Q And then it said any future use or 8 possession of illegal and/or nonprescription 9 drugs or being under the influence of alcohol or 10 nonprescription drugs and/or illegal drugs while 11 on HMMA premises will subject you to corrective 12 action up to and including termination. You 13 understood that? 14 A Yeah. They told me that without a 15 doubt I'd be -- anything happened again I'd be 16 terminated. And I've been -- part of their 17 process also is I'm subjected to random 18 drug/alcohol tests every month. I get two to 19 three tests every month. It's been going on 20 since then. 21 Q Outside of Ms. Warner and Mr. Clevenger 22 who else at the Hyundai plant knows that? 23 A I couldn't tell you. I don't know.</p> <p style="text-align: right;">85</p>	<p>1 Q So at the time that you saw Mr. Dees 2 sleeping on the job, you were an alcoholic and 3 you did abuse alcohol; is that correct? 4 MR. JOHNSON: I'm sorry. I 5 misunderstood that. What was that? 6 Q At the time you saw Mr. Dees sleeping 7 and reported him, you were an alcoholic and you 8 were abusing alcohol; is that correct? 9 MR. JOHNSON: Object to the form. 10 A I had no deliberate use of alcohol at 11 the time, but on the weekend I had a drink. 12 Q Well, how do you not deliberately use 13 alcohol? 14 A Like if I knew I was going into work 15 that afternoon drinking a few beers before I 16 went in to work. 17 Q And I don't mean to embarrass you and 18 there are a lot of people who are recovering 19 alcoholics. But were you an alcoholic on the 20 day you saw Dees sleeping? 21 A What's your definition of an 22 alcoholic? 23 Q Whatever your definition is. You're</p> <p style="text-align: right;">87</p>
<p>1 Q Did anybody ask you why did you 2 disappear? 3 A I had Team Members ask me that. 4 Q Who asked you that? 5 A Just Team Members on the floor. They 6 said is everything okay. Because they knew my 7 wife and I had had some marital problems, too. 8 Q Well, had your cocaine use caused 9 marital problems? 10 A No. 11 Q You hesitated. Are you sure? 12 A No. 13 Q How about your alcohol abuse? 14 MR. JOHNSON: Object to the form. 15 A Alcohol did interfere with it in the 16 sense that my wife and I would have serious 17 arguments and I would walk out of the house and 18 go to the garage and drink a few beers, drink a 19 six-pack or so just to not listen to her because 20 she was unhappy about the move down here. 21 Q Y'all didn't go through the unfortunate 22 experience of getting in a divorce, did you? 23 A No.</p> <p style="text-align: right;">86</p>	<p>1 the expert. 2 A I'm not an expert. 3 MR. JOHNSON: Object to the form. 4 Q Well, you've been through the program. 5 A From my understanding the clinical 6 definition is I was a conditional alcoholic. 7 Q And you were that on the day you saw 8 Dees sleeping? 9 A A conditional alcoholic on the weekends 10 when my wife and I would have altercations. 11 Q And that alcoholism had led to serious 12 problems with your wife? 13 MR. JOHNSON: Object to the form. 14 A No. It was due to the stress of the 15 move and going through a custody battle with my 16 wife's ex-husband. 17 Q And if you had been terminated for 18 being positive drug tested for cocaine, what do 19 you think that would have done to your 20 employment career? 21 A Probably dismantled it. 22 Q And that would have been a severe 23 emotional as well as financial blow to you,</p> <p style="text-align: right;">88</p>

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1 wouldn't it?

2 MR. JOHNSON: Object to the form.

3 A Yeah, it would have been a trial

4 sometime.

5 Q You would have had trouble getting a

6 job, wouldn't you?

7 MR. JOHNSON: Object to the form.

8 A I can't -- I can't say that. I don't

9 know.

10 Q So you've never been in a position of

11 having been terminated and tried to get a job?

12 A No.

13 Q Well, Mr. Dees is now in that position,

14 isn't he?

15 MR. JOHNSON: Object to the form.

16 A I don't know what he's doing right

17 now. I can't speak for that.

18 Q Well, you wouldn't want termination to

19 be a black mark on your employment record, would

20 you?

21 MR. JOHNSON: Object to the form.

22 A I mean, if it's -- if something like

23 that happens, it happens. I mean, I can't...

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1 of 24 months. You see that?

2 A Yes.

3 Q So you are a conditional employee,

4 aren't you?

5 A (Witness nods head.)

6 Q Is that correct?

7 A That would be correct.

8 Q All right. So basically you're on

9 probation today, aren't you?

10 A Correct.

11 Q With Hyundai; is that correct?

12 A Correct.

13 Q And you know that the slightest

14 misbehavior on your part is going to result in

15 immediate termination, don't you?

16 MR. JOHNSON: Object to the form.

17 A That's my understanding.

18 Q And Mr. Clevenger and Wendy Warner, as

19 well as the other Hyundai officials, they've

20 basically got life and death authority over your

21 job right now, don't they?

22 MR. JOHNSON: Object to the form.

23 A I don't know about they have sole

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1 Q Well, do you agree with me that

2 termination is a black mark on your employment

3 record?

4 A I'm sure it would be a problem.

5 Q Would you agree with me that

6 termination for drug abuse like cocaine would be

7 a black mark on your employment record?

8 A Probably would be.

9 Q And at the time you were caught red

10 handed with cocaine in your system, you were the

11 only eye witness to Mr. Dees sleeping, were you

12 not?

13 MR. JOHNSON: Object to the form.

14 A I was the person that seen him

15 sleeping. That would be correct.

16 Q And you had signed two statements to

17 that effect, hadn't you?

18 A Correct.

19 Q And in this document we're looking at,

20 Bates number 228, signed by you, Wendy Warner,

21 and Mr. Clevenger, it says -- in the last

22 sentence it says this Letter of Conditional

23 Employment will remain in your file for a period

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1 control or life or death. That falls in my

2 lap. That's my responsibility to control my

3 destiny through this issue.

4 Q So you're going to be on conditional

5 employment for two years?

6 A Correct.

7 Q So your conditional employment is going

8 to end when?

9 A Probably as of the date that I signed

10 on here, two years after that, '09.

11 Q April '09?

12 A April '09.

13 Q When is the last time you had used

14 cocaine before you got caught at the Hyundai

15 plant?

16 A I don't know. I was probably around 25

17 or 26. Somewhere right around there. I can't

18 recall exactly. That was ten years ago, eight

19 years ago.

20 Q Were you addicted to it?

21 A No. I was more or less experimenting.

22 Experimenting. Kind of a recreational --

23 recreational-type thing. You're around some

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23 (Pages 89 to 92)

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<p>1 people that were doing some of that stuff 2 sometimes, so it's kind of a stupid thing of 3 peer pressure, just fitting in, not making a 4 sound judgment on it at that time.</p> <p>5 Q Are you in charge of enforcing the drug 6 and alcohol abuse policy at the Hyundai plant in 7 your job as Stamping manager?</p> <p>8 A As far as enforcing the policy, if I 9 have an employee that I suspect that is doing 10 something like that or acting out in some way, 11 shape, or form, they are sent to Medical and 12 then dealt with through a process. As far as me 13 following through and dictating all that, that's 14 not my scope.</p> <p>15 Q When's the last time you've been 16 randomly drug tested?</p> <p>17 A I think the Wednesday or Thursday right 18 before Thanksgiving week.</p> <p>19 Q Two weeks ago?</p> <p>20 A Yeah.</p> <p>21 Q What did it show?</p> <p>22 A Negative.</p> <p>23 Q Who gets the results of that?</p> <p style="text-align: right;">93</p>	<p>1 information. And I note that a document related 2 to it was in his file that was produced, which 3 is Bates number 282. And I'd like for y'all to 4 produce that today so I can ask him questions 5 about it.</p> <p>6 And I would also point out that cocaine 7 usage is a serious problem. Cocaine usage can 8 affect one's ability to recollect, one's 9 observation capabilities. There are long-term 10 effects, which I think could bear on his 11 credibility.</p> <p>12 MR. JOHNSON: If we can just take a 13 quick break. Let me and Chris go discuss that 14 issue, and then we'll get back with you.</p> <p>15</p> <p>16 (Whereupon, a brief recess was had in 17 the proceeding.)</p> <p>18</p> <p>19 MR. KILBORN: I have requested prior to 20 the break the files on the Hyundai substance 21 abuse program treatment that the witness has 22 testified about as being relevant to credibility 23 issues clearly since he's the only eye witness</p> <p style="text-align: right;">95</p>
<p>1 A My understanding -- from what I 2 understand, Medical people give the results to, 3 I believe, HR, I believe.</p> <p>4 Q I want to take a break.</p> <p>5 MR. KILBORN: Matt, I'd like to get his 6 entire file regarding this cocaine incident.</p> <p>7 MR. SMITH: Make a request.</p> <p>8 MR. KILBORN: Well, I think it's 9 covered by our current discovery. It should 10 have been in his personnel file.</p> <p>11 MR. SMITH: It's at ICM. It's 12 maintained in separate files.</p> <p>13 MR. JOHNSON: The current request 14 that's outstanding that we responded to has to 15 do with the personnel file. This is a 16 completely separate medical file that contains 17 medical information, private health information 18 that employers, as I understand it, must keep 19 separately from general everyday personnel 20 info.</p> <p>21 MR. KILBORN: I know. Well, we do have 22 a protective order. I do think it's covered by 23 our request. I do think it's relevant</p> <p style="text-align: right;">94</p>	<p>1 in the case and the presence of cocaine in his 2 system was a short time after this incident took 3 place. As I understand, counsel has refused to 4 produce that on the grounds that, one, it hasn't 5 been requested and, two, that it's in the 6 possession of some other company called ICM. 7 And my position on the latter would be that it's 8 within Hyundai's possession, custody, or 9 control. Control being the operative word. And 10 I'm requesting it now so that I will not have to 11 come back and redepose the witness on the 12 subject matter of that since he's such a 13 critical witness in the case.</p> <p>14 MR. JOHNSON: Is that -- are you -- 15 have you stated your case?</p> <p>16 MR. KILBORN: Yes.</p> <p>17 MR. JOHNSON: And just for the Record, 18 again, as Mr. Kilborn has stated, medical 19 records or anything related to the personal 20 health information of Mr. Brookshire or any 21 other witness in the case has not been requested 22 and as such has not been identified or produced 23 in discovery in this case. To the extent a</p> <p style="text-align: right;">96</p>

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1 request is made, it will be addressed
 2 appropriately and in a timely fashion. We do
 3 not have that information here today in part
 4 because it wasn't requested and as such we are
 5 not in a position to produce it today.
 6 Secondly, and perhaps of equal
 7 practical importance, it is our understanding
 8 that the Medical Department information is kept
 9 on an outsource basis by a third-party and those
 10 documents would not be available on site at HMMA
 11 today. It may be possible to get them if they
 12 had been timely and appropriately requested, but
 13 it's our understanding that is likely not the
 14 case.
 15 MR. KILBORN: Will you state on the
 16 Record whether or not Hyundai does have control
 17 of those documents such that if they requested
 18 them they could get them?
 19 MR. JOHNSON: Had they been timely
 20 requested, we could have gotten them and
 21 responded appropriately.
 22 MR. KILBORN: Well, I'm going to
 23 continue.

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1 **question is if that appears to be a sketch of**
 2 **this control panel is an accurate sketch?**
 3 A I can't remember if it's got three or
 4 four doors, but I believe it's got three and
 5 then it's got the sheet metal platform below it.
 6 Q **So your testimony is it's accurate?**
 7 A (Witness nods head.) Yeah.
 8 Q **Is that a yes?**
 9 A Yes.
 10 Q **Do you see a chair in the sketch?**
 11 A Yes, I do.
 12 Q **Was that chair there on the night of**
 13 **the incident in question?**
 14 A Yeah, the chair was about where it was
 15 up against the middle of the cabinet.
 16 Q **The middle door?**
 17 A The middle door.
 18 Q **Mr. Dees was sitting in that chair?**
 19 A Yes.
 20 Q **And what is this -- appears to be some**
 21 **type of object here and it's facing -- the**
 22 **control panel would be on the left of the**
 23 **sketch, bottom left?**

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1
 2 (Whereupon, Plaintiff's Exhibit
 3 Number 16 was marked for identification
 4 and copy of same is attached hereto.)
 5
 6 BY MR. KILBORN:
 7 Q **Mr. Brookshire, let me give you a copy**
 8 **of a document marked Plaintiff's Exhibit 16 and**
 9 **ask you if you would look at the front and back**
 10 **of that and tell me if you recognize either the**
 11 **front or the back.**
 12 A (Witness reviews document.) I've never
 13 seen this document.
 14 Q **Do you know who drew the sketch on the**
 15 **back?**
 16 A No.
 17 Q **Do you know what that's a sketch of?**
 18 A It's the control cabinet upstairs.
 19 Q **Is it accurate?**
 20 A Is this sketch saying that the doors
 21 were open or the doors were closed?
 22 Q **All I know is that I was given that**
 23 **sketch, so I can't answer your question. My**

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1 A I don't recall that object being
 2 there. I remember the chair being back up
 3 against the cabinet, the middle door, facing
 4 forward.
 5 Q **Was the back of the chair touching the**
 6 **middle door?**
 7 A I couldn't tell you exactly if it was
 8 touching the door or not. I know it was close
 9 to back up towards the middle of the door -- or
 10 middle door.
 11 Q **How far in your judgment?**
 12 A It was pretty close to the door.
 13 Q **Inches?**
 14 A Probably four inches or less.
 15 Q **And was the chair in the position**
 16 **indicated on the drawing that Mr. Dees was**
 17 **sitting in?**
 18 A The position I can recall was the chair
 19 was facing parallel going off the platform which
 20 it's sitting on, not angled, parallel in the
 21 direction of the platform up towards the middle
 22 door.
 23 Q **So the chair was sitting square on --**

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<p>1 up against or close to the middle door facing</p> <p>2 directly toward you?</p> <p>3 A Correct.</p> <p>4 Q All right. And that's as opposed to</p> <p>5 being at the angle it appears in the sketch?</p> <p>6 A Correct.</p> <p>7 Q And you did not see some object that</p> <p>8 appears at the lower left of that sketch?</p> <p>9 A I don't recall any object being there.</p> <p>10 There could have been a wire spool or something</p> <p>11 off maybe close to the cabinet or off to the</p> <p>12 side but I didn't see that.</p> <p>13 Q You did not see a wire spool?</p> <p>14 A If that's what that drawing is supposed</p> <p>15 to be, I didn't see that.</p> <p>16 Q How about taking your pen there and</p> <p>17 drawing a circle around what appears to be a</p> <p>18 wire spool?</p> <p>19 A (Witness complied.)</p> <p>20 Q And draw a little line around there and</p> <p>21 just put a line to your initials and today's</p> <p>22 date so we'll know that's you today instead of</p> <p>23 at the time it was drawn.</p> <p style="text-align: right;">101</p>	<p>1 A What I can tell what the chair looked</p> <p>2 like it's an office chair. It came from the</p> <p>3 office.</p> <p>4 Q Was that the first time you'd ever seen</p> <p>5 that chair?</p> <p>6 A I don't recall seeing -- I've seen</p> <p>7 ladders. I've seen ladders there, but I don't</p> <p>8 recall seeing that specific chair sitting there</p> <p>9 right there in front of the door.</p> <p>10 Q So that would have been an unauthorized</p> <p>11 chair?</p> <p>12 A Yeah, because the office chairs are not</p> <p>13 supposed to leave the office.</p> <p>14 Q All right.</p> <p>15 A Unless they have assigned chairs in</p> <p>16 break areas or conference rooms or something</p> <p>17 like that.</p> <p>18 Q Had that chair ever been there before?</p> <p>19 A Not that I can recall. Like I said,</p> <p>20 all I've ever seen there has been a ladder.</p> <p>21 Q And immediately after the incident</p> <p>22 where you saw Mr. Dees in the chair asleep was</p> <p>23 the chair removed?</p> <p style="text-align: right;">103</p>
<p>1 A (Witness complied.)</p> <p>2 Q And that object you do not recall</p> <p>3 seeing was there?</p> <p>4 A No, sir.</p> <p>5 Q All right. Would your testimony be</p> <p>6 that it was not there?</p> <p>7 A It was not there.</p> <p>8 Q Okay. Do you know who drew the sketch</p> <p>9 that shows it there?</p> <p>10 A No idea.</p> <p>11 Q What would a wire spool be doing there?</p> <p>12 A Maybe if they had made some engineering</p> <p>13 changes or some wiring changes inside this</p> <p>14 cabinet and they had a wire spool there to run</p> <p>15 input bits or something. I don't know.</p> <p>16 Q There would be no other purpose for a</p> <p>17 wire spool to be there?</p> <p>18 A (Witness shakes head.)</p> <p>19 Q You have to say yes or no.</p> <p>20 A No.</p> <p>21 Q What was the chair doing there?</p> <p>22 A That's a good question.</p> <p>23 Q Where did the chair come from?</p> <p style="text-align: right;">102</p>	<p>1 A After the fact? After time passed?</p> <p>2 Q Right.</p> <p>3 A Yeah.</p> <p>4 Q Who removed it?</p> <p>5 A I'm not sure. I don't know who removed</p> <p>6 it.</p> <p>7 Q That would have taken place February</p> <p>8 14, 2007. How long after that approximately</p> <p>9 would it have been removed?</p> <p>10 A I can't recall that, sir. I mean, I</p> <p>11 didn't remove the chair. I didn't tell my</p> <p>12 people to remove the chair. So I can't account</p> <p>13 for who removed the chair and when it actually</p> <p>14 was removed. I don't know.</p> <p>15 Q So the chair was an unauthorized piece</p> <p>16 of equipment?</p> <p>17 A Yeah.</p> <p>18 Q And is your job -- part of your job to</p> <p>19 remove unauthorized equipment from the plant?</p> <p>20 A I've never -- I've never been in charge</p> <p>21 of removing -- we make notes of stuff like that,</p> <p>22 or I've had chairs in -- office chairs come out</p> <p>23 in other break areas where we -- out of break</p> <p style="text-align: right;">104</p>

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<p>1 areas and in places where they shouldn't be. 2 And presuming that we have heard some other 3 people had been sleeping, we removed those 4 chairs immediately. I know there have been some 5 chairs located in other areas and we've removed 6 and disposed of the chairs. 7 Q So are you telling me that it was 8 fairly common to find employees sitting in 9 chairs sleeping? 10 MR. JOHNSON: Object to the form. 11 A No, that wasn't common, but we had 12 found some chairs that we had presumed that 13 people were using for that purpose and we 14 disposed of the chair. 15 Q To sleep in a chair? 16 A I'm guessing or having a break in the 17 chair off somewhere where it wasn't supposed to 18 be outside of a standard break area. 19 Q Were there two chairs on that level? 20 A I can't recall. This whole platform up 21 here is a mesh platform. And if you had set the 22 chair anywhere outside of here, your legs would 23 go through the platform.</p> <p style="text-align: right;">105</p>	<p>1 Q And those are the same three doors you 2 saw; correct? 3 A Yeah. 4 Q And the door on the left of the 5 drawing, which side of that door looking at the 6 drawing, left or right, is it hinged in the 7 drawing? 8 A Looking at the drawing? 9 Q Right. 10 A Going by this drawing, I would say it's 11 hinged on the right side looking at the left 12 door. 13 Q All right. Draw an arrow down there 14 and put the word hinged and today's date and 15 your initials. 16 A (Witness complied.) 17 Q Now, and looking at the drawing on 18 the -- regarding the door on the right side of 19 the drawing looking directly at it, which side 20 of that door on the right is that door hinged in 21 the drawing? 22 A Looking at the right door, it's hinged 23 on the left-hand side.</p> <p style="text-align: right;">107</p>
<p>1 Q So you have no information about 2 another chair on that level? 3 A No. I know there was plywood -- 4 there's a piece of plywood up on that mezzanine 5 and I remember there was a ladder but that was 6 on the opposite side. 7 Q Was there a chair on the plywood? 8 A I can't recall, because at the time, 9 our senior director of Engineering Maintenance 10 done a great job. He actually got that stuff 11 cleaned up up there. But I can't recall. I 12 remember there was a ladder there because 13 sometime when they've got to work on those 14 trolleys they've got to pull a ladder out and 15 they can't put a ladder on that wire mesh 16 because it will wobble. So they've got to move 17 that piece of plywood around if they've got to 18 work on a trolley. But another chair... 19 Q Looking at Plaintiff's Exhibit 16, the 20 reverse side, the sketch, and looking directly 21 at the control panel, you see three doors, do 22 you not? 23 A Correct.</p> <p style="text-align: right;">106</p>	<p>1 Q Go ahead and write hinged. 2 A (Witness complied.) 3 Q And the door in the middle is hinged on 4 its left or right side looking at the drawing? 5 A Looking at the drawing the handle is on 6 the left-hand side of the door, so it would have 7 to be hinged on the right. 8 Q Okay. Now, I've heard that somehow or 9 another Mr. Dees had used the doors to provide a 10 hiding place. Is that your recollection? 11 A My recollection is at the time of this 12 incident the doors may have been cracked open 13 because sometimes Maintenance doesn't completely 14 shut the doors so they can easily access the 15 panel. But my recollection was the doors were 16 mostly shut. I can't account if they were 17 exactly locked shut but they were mostly shut. 18 As far as him using that routinely and opening 19 the doors to hide, I don't know. 20 Q You didn't see door panels -- excuse 21 me -- you didn't see doors open to the extent 22 that you thought they were being used by 23 Mr. Dees as a blind to hide behind?</p> <p style="text-align: right;">108</p>

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<p>1 MR. JOHNSON: Object to the form.</p> <p>2 A What I can tell you is the day of the</p> <p>3 incident that I seen him I can't tell you</p> <p>4 whether the doors were completely locked or not,</p> <p>5 but they weren't wide open.</p> <p>6 Q Well, in your opinion, since you were</p> <p>7 the only one there besides Mr. Dees, were the</p> <p>8 doors positioned so they made a blind to assist</p> <p>9 in hiding?</p> <p>10 MR. JOHNSON: Object to the form.</p> <p>11 A I can't really see how opening these</p> <p>12 doors hides him from anything.</p> <p>13 Q I can't either, but that's not my</p> <p>14 question.</p> <p>15 A This is the third floor, and when</p> <p>16 you're down here, this door is going to hide you</p> <p>17 from a crane coming at you and that door hides</p> <p>18 you from an elevator. So there's really...</p> <p>19 Q So if you wanted to hide, you wouldn't</p> <p>20 open the door panels looking at this drawing on</p> <p>21 the left or right because the visibility would</p> <p>22 be --</p> <p>23 A Down below.</p> <p style="text-align: right;">109</p>	<p>1 hide Mr. Dees while he was sleeping?</p> <p>2 A It's not my testimony. I mean, what I</p> <p>3 can tell you I can account for is how I</p> <p>4 recollect the chair being positioned and how I</p> <p>5 remember the doors being.</p> <p>6 Q And you were the only one there besides</p> <p>7 Mr. Dees?</p> <p>8 A Correct.</p> <p>9 Q Do you know where Hyundai got</p> <p>10 information that two doors on the control panel</p> <p>11 were used as a blind to hide Mr. Dees?</p> <p>12 A No.</p> <p>13 Q And, in fact, as you told me, if you</p> <p>14 had opened the control panel doors to use them</p> <p>15 as a blind on the left and right doors looking</p> <p>16 at the drawing, it wouldn't be hiding you from</p> <p>17 visibility anyway because the visibility is from</p> <p>18 the front not the side?</p> <p>19 A Visibility is from the bottom.</p> <p>20 Q As a matter of fact, if you're standing</p> <p>21 over here on the right of the drawing, you're</p> <p>22 going to fall off into an abyss because there's</p> <p>23 nothing there, is there?</p> <p style="text-align: right;">111</p>
<p>1 Q -- down below --</p> <p>2 A Correct.</p> <p>3 Q -- looking up and there's no door panel</p> <p>4 to hide you there?</p> <p>5 MR. JOHNSON: Object to the form.</p> <p>6 A You're hidden by this floor plate. You</p> <p>7 can't see through it because it's not mesh.</p> <p>8 Q Does it appear to you in that sketch on</p> <p>9 the reverse of Exhibit 16 that one has drawn the</p> <p>10 left and right doors to make it appear they were</p> <p>11 open to the extent that maybe they would provide</p> <p>12 some cover or a blind of some type?</p> <p>13 MR. JOHNSON: Object to the form.</p> <p>14 A To me, it just looks like somebody has</p> <p>15 drawn an electrical cabinet with the doors open</p> <p>16 with a chair in it, and that to me doesn't -- to</p> <p>17 me, I mean, they could have been looking at a</p> <p>18 problem in either cabinet and left the door open</p> <p>19 for all I know. I mean, I -- as far as somebody</p> <p>20 setting something up like that, I don't know.</p> <p>21 Q So is it your testimony that -- is it</p> <p>22 your testimony that two of the doors on the</p> <p>23 control panel were opened and used as a blind to</p> <p style="text-align: right;">110</p>	<p>1 A There's a little bit of an entranceway</p> <p>2 and then right here is an elevator that brings</p> <p>3 the trolleys up.</p> <p>4 Q That elevator is just an open area,</p> <p>5 isn't it?</p> <p>6 A Right.</p> <p>7 Q Maybe, what, 15 by 15?</p> <p>8 A Probably.</p> <p>9 Q So if somebody was standing there</p> <p>10 they'd be talking to St. Peter?</p> <p>11 A Yeah, they'd fly off.</p> <p>12 Q So if Mr. Dees was trying to make a</p> <p>13 blind out of the control panel doors, he would</p> <p>14 have had to somehow or another taken the door</p> <p>15 off and stuck it in front of him, wouldn't he?</p> <p>16 MR. JOHNSON: Object to the form.</p> <p>17 A To me, it's the approach of it. I</p> <p>18 mean, you access it -- like if you -- this</p> <p>19 walkway, there's a walkway or trolley</p> <p>20 entranceway that comes down here. If you were</p> <p>21 over here, like if you accessed and came up to</p> <p>22 this elevator and came up over here and you were</p> <p>23 right here and that door was open, that would</p> <p style="text-align: right;">112</p>

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<p>1 conceal him from there. But if you came around 2 the front, then you would see him. Back over 3 here, there's nothing here, and then you access 4 from the front or the bottom. But the bottom is 5 hidden by the floor plate.</p> <p>6 Q You came up directly -- you would have 7 been facing Dees, correct, and facing the 8 control panel?</p> <p>9 A Correct. I was off -- maybe like if it 10 was here, I was a little off coming in at this 11 angle.</p> <p>12 Q So when you came up, you could clearly 13 see him?</p> <p>14 A Yeah.</p> <p>15 Q He wasn't behind a blind or anything?</p> <p>16 A No.</p> <p>17 Q And I know there are quite a bit of 18 scuff marks on that plate in front of the 19 control panel. What causes that?</p> <p>20 A Scuff marks on the plate?</p> <p>21 Q Scuff marks, yeah.</p> <p>22 A I don't know. I mean, depends on what 23 the Maintenance guys do over there. Like I</p> <p style="text-align: right;">113</p>	<p>1 the panels because that's the easiest way to 2 look for splits and wrinkles is from the 3 backside of the panel. I had an LED flashlight 4 with me shining through there checking the 5 panels. I had a flashlight in one hand and a 6 stone in the other. And then I put the stone 7 away because I was going over there to check -- 8 check -- because we were running them on the 9 press at the time, so they were coming in on the 10 entry lane over here.</p> <p>11 Q That would be on the left side of the 12 drawing look at it?</p> <p>13 A Yes. And I came and I -- and that's 14 the first lane. And that would be the first 15 lane.</p> <p>16 Q So you're writing the words first lane 17 on there?</p> <p>18 A Yeah.</p> <p>19 Q Make sure you put a date by anything 20 you write on there.</p> <p>21 A Okay. And you've got two lanes. 22 You've got an entry lane that comes in here and 23 then a -- where the trolleys are coming down</p> <p style="text-align: right;">115</p>
<p>1 said, I've seen ladders over there. I have no 2 idea. Multiple things cause scuff marks. I 3 mean, down on our other floor, we've got scuff 4 marks on our platforms from laying scrap panels 5 down. Every time you lay those panels down it 6 chips the paint and flakes the paint.</p> <p>7 Q And describe for me your actions in 8 coming up to the third floor where Mr. Dees was, 9 or the third level -- you call it a level or a 10 floor?</p> <p>11 A Third floor, third level.</p> <p>12 Q Describe what happened as you came up 13 there.</p> <p>14 A I was coming up the third floor, like I 15 said earlier, to check on some CM side outer 16 right-hand panels for splits and waves. I come 17 in through the entranceway there at the stairway 18 and came over between the panels to the row 6 19 and row 7 because that's their storage lane for 20 those panels. And I wanted to check the panels 21 that we had in there to see if we had good 22 panels to get to our customer. And I was coming 23 between the lanes to look at the backsides of</p> <p style="text-align: right;">114</p>	<p>1 this lane, and then you've got a return lane 2 where empty trolleys are going down to this 3 elevator that goes to the presses. And that 4 circles back around actually above this area 5 here. And I was coming in here at the sixth 6 lane if you're looking at it from this way -- 7 the sixth lane and the seventh lane.</p> <p>8 Q And you're putting the letters sixth 9 and seventh there?</p> <p>10 A Yeah.</p> <p>11 Q Go ahead and put your initials and date 12 there.</p> <p>13 A And I was coming down in between these 14 lanes with the flashlight checking these 15 panels. I come to the end, and it's kind of 16 hard. You've got to flip this around. But 17 there's two -- two lanes. You've got your lane 18 going around from the reworks station coming up 19 from the elevator. It comes up and comes across 20 right in front of here. And then you have the 21 other lane that comes off 6 and 7 to go to the 22 drop down station for the elevator in the 23 opposite direction. So I was wanting to check</p> <p style="text-align: right;">116</p>

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<p>1 panels and make sure we had good panels going to 2 the customer. And then that's when I had to 3 come to a stop because we had panels making lane 4 changes and that's when I looked over there and 5 seen Leon over there. And I was probably 30 6 feet right there at the end, because it's 7 probably from -- towards the end of the lane 8 right here to there it's about 30 feet, 25 to 30 9 feet. Somewhere around in there. And then this 10 went by and I had to wait for the other lane to 11 go by. And then I crossed through and went 12 here, and that's probably 15 to 20 feet. Right 13 in there in the middle I squelched my radio. I 14 turned my radio up to squelch it. Because I had 15 called the guys down on the floor to let them 16 know what I had seen as far as quality issues. 17 Then I was crossing across to go here. And then 18 I seen Leon and I squelched my radio. Kind of 19 like, hey, here's the alarm clock, wake up, wake 20 up. So I was hurrying. Once the panels came 21 through, I went over here to check the first 22 trolleys that were coming through. We'd just 23 run them off the press and they'd just came up.</p> <p style="text-align: right;">117</p>	<p>1 told his Team Leader what I saw. 2 Q Well, when you saw him last up there on 3 the third level, he was looking sleepy and 4 groggy? 5 A He had the look of somebody just seen 6 him doing something he wasn't supposed to be 7 doing. To me, he appeared to be fishing for 8 something to do, the reason why he was up 9 there. Because normally we don't go up to the 10 third level unless there's a problem. 11 Q So he was -- 12 A Normally nobody is up there unless we 13 had a problem. We didn't have a trolley problem 14 because we were running fine. We were just 15 waiting on the panels to make it to the Weld 16 Shop. We was running them off the press. 17 Q So Mr. Dees was basically creating a 18 ruse acting like he was doing something when he 19 really wasn't? 20 MR. JOHNSON: Object to the form. 21 A What it appeared to be to me was he had 22 came out of a stance off that chair having a 23 surprised look on his face that I was up there.</p> <p style="text-align: right;">119</p>
<p>1 I was circling around going through here waiting 2 for those to come by and I was going to this 3 first -- I think there was probably five -- five 4 right in here. And then I was checking the 5 quality on them, going around the backside of 6 the panel and checking the quality. 7 After that that's when I noticed he had 8 gotten up out of his chair and grabbed what they 9 call -- we call them fishing poles, but they're 10 actually brake release poles. They use them on 11 the trolleys. We've got a mechanical brake on 12 there that actually releases the trolleys so 13 Maintenance can move the trolley out of 14 position. And I had seen him grab that brake 15 pole. He like jumped up out of the chair and he 16 grabbed the brake pole, and I'm wondering why he 17 grabbed the brake pole because we weren't having 18 any problems. All the trolleys were moving at 19 the time. And then after point after I made 20 that, I went back by and he was over here just 21 walking around looking at trolleys when I walked 22 back by and went back down the stairs. And then 23 within that next half an hour, that's when I</p> <p style="text-align: right;">118</p>	<p>1 Q And you say surprised look on his face? 2 A Kind of like where did I come from kind 3 of a look. 4 Q And the first time you saw Mr. Dees 5 sitting in the chair how many feet away were 6 you? 7 A 25. 20, 30. Somewhere right around in 8 there. 9 Q How close did you get to him? 10 A Probably around 15 to 20. Because 11 you've got the two lanes that run through here, 12 the return lane from rework and then the feed 13 lane. And I went in between those lanes. 14 Q And you say when you -- what did you 15 say you did with your radio? 16 A Squelched it. 17 Q Squelched your radio. What did he do? 18 A He didn't do anything. 19 Q Nothing? 20 A (Witness shakes head.) 21 Q And what's the next thing you saw him 22 do? 23 A That's when -- like I said, I went</p> <p style="text-align: right;">120</p>

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<p>1 through there and squelched my radio. And I was 2 on my mission to get these panels to the Weld 3 Shop, because our priority is to make sure the 4 Weld Shop doesn't run out of parts, don't shut 5 the Weld Shop down. So we're going through 6 here, cutting through here -- well, not we're -- 7 I'm cutting through here, and I just squelched 8 my radio. And I'm over here getting ready to 9 check these panels and make sure they're okay. 10 I go over here and flashlight them from the 11 front side and then go to the backside. And 12 when I go to the backside obviously the door 13 openings are there, and that's when I realized 14 he -- he was like up out of the chair grabbing 15 one of the fishing poles. 16 Q Well, did he like jump out of the 17 chair? 18 A He was already up out of the chair just 19 moving around. He had one of the poles in his 20 hand. 21 Q Where had he gotten the pole from? 22 A Normally the Maintenance guys will 23 leave them like laying with the -- there's like</p> <p style="text-align: right;">121</p>	<p>1 Q That's the kind of look you saw? 2 A Yeah. Kind of (indicating). 3 Q And when you first saw him, he was dead 4 asleep, wasn't he? 5 MR. JOHNSON: Object to the form. 6 A The position I seen him in, he appeared 7 to be asleep just like I made in my statement 8 with his hat on and the way his legs were 9 extended and the posture that he exhibited in 10 the chair. 11 Q Did you see his eyes? 12 A No, I didn't see his eyes. 13 Q Were his eyes opened or closed? 14 A I can't honestly tell you that because 15 he had a hat on, because we've got to wear a 16 bump cap. And he had the hat on. He was 17 positioned like this (indicating). 18 Q And he was sitting in the chair? 19 A Yes. 20 Q And when you made your radio make that 21 chirping sound, he didn't move? 22 A I didn't see him move. 23 Q Okay. Well, he didn't move as far as</p> <p style="text-align: right;">123</p>
<p>1 a fence over here. They'll leave them laying on 2 the floor up against the fence or leave them on 3 this side laying up against the fence like on 4 the mesh floor leaning up against the guardrail. 5 Q So was he looking real guilty, wasn't 6 he? 7 MR. JOHNSON: Object to the form. 8 A I can't say a person is guilty. I can 9 just say that the person -- that Mr. Dees 10 appeared to me that he had this surprised look 11 on his face, where did I come from. 12 Q And you knew Mr. Dees, didn't you? 13 A Yeah, I knew Mr. Dees. 14 Q So you would know what a surprised look 15 on his face was; right? 16 MR. JOHNSON: Object to the form. 17 A How personal are you saying I knew 18 him? Because I talked to him as a person. But 19 as an expert knowing all of his integral aspects 20 of his life, I don't know that. But I can tell 21 when somebody kind of gives a look like where 22 did you come from or what are you doing here 23 kind of look.</p> <p style="text-align: right;">122</p>	<p>1 you know? 2 A Right. 3 Q So that didn't wake him up, the 4 chirping sound? 5 A (No response.) 6 Q Excuse me? 7 A At that point I guess it didn't because 8 he didn't move when I squelched my radio. Like 9 I said, I walked by and I squelched the radio. 10 And if anybody's ever been up there, you can 11 feel vibrations in that platform when you're 12 walking. I don't know if the vibrations 13 actually got him or what happened, but I know I 14 squelched my radio, no movement, and I was on my 15 way to go check the panels. I did not stay 16 there and stare at him to see if he got up after 17 I squelched the radio. 18 Q Why didn't you go over there and say, 19 hey, Leon, wake up? 20 A Because at the time I thought the 21 squelching of the radio and me walking across 22 the platform would get him up. And I was, like 23 I said, on my way to check the panels and make</p> <p style="text-align: right;">124</p>

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<p>1 sure that they were on the way to the Body Shop</p> <p>2 and make sure we were making good quality panels</p> <p>3 to go to the Body Shop.</p> <p>4 Q Well, you knew that chirping the radio</p> <p>5 hadn't woken him up, didn't you?</p> <p>6 MR. JOHNSON: Object to the form.</p> <p>7 A I'm not for sure.</p> <p>8 Q Well, you didn't see any activity?</p> <p>9 A I knew it chirped and I didn't stand</p> <p>10 there and stare at him.</p> <p>11 Q You did not see him wake up, did you?</p> <p>12 A No.</p> <p>13 Q All right, sir. As far as you knew</p> <p>14 when you walked back off, he was still asleep,</p> <p>15 wasn't he?</p> <p>16 MR. JOHNSON: Object to the form.</p> <p>17 A From my recollection you can say that.</p> <p>18 Q And he only was awake as far as you</p> <p>19 knew is when you came back and he was up</p> <p>20 pretending like he was doing something with the</p> <p>21 pole?</p> <p>22 A He had the pole in his hand. Correct.</p> <p>23 Q Is it noisy up there with the trolleys</p> <p style="text-align: right;">125</p>	<p>1 danger, wouldn't it?</p> <p>2 MR. JOHNSON: Object to the form.</p> <p>3 A It could put him in danger.</p> <p>4 Q You left where you saw him sleeping</p> <p>5 without making sure he was awake or attempting</p> <p>6 to wake him?</p> <p>7 A I did attempt to wake him, and I didn't</p> <p>8 leave the area. And you could rest assured if</p> <p>9 he was still in that chair after I looked at</p> <p>10 those two racks or two trolleys of panels, I</p> <p>11 would have went over there and talked to him.</p> <p>12 Q But you didn't?</p> <p>13 A He was already up.</p> <p>14 Q Well, when you found him already up why</p> <p>15 didn't you go over and say something to him</p> <p>16 about what you had seen?</p> <p>17 A Because I'm not his direct supervisor.</p> <p>18 That's not for me to address.</p> <p>19 Q Well, you were his supervisor on this</p> <p>20 shift, weren't you?</p> <p>21 A No, no.</p> <p>22 Q I thought you were substituting for</p> <p>23 the --</p> <p style="text-align: right;">127</p>
<p>1 and everything?</p> <p>2 A The trolleys are pretty quiet. Down</p> <p>3 towards the presses is where the noise is at.</p> <p>4 Q Did you wear earplugs?</p> <p>5 A Up on the third floor you don't have to</p> <p>6 wear them, or the SOP booth. But down around</p> <p>7 the press areas, you're supposed to wear</p> <p>8 earplugs.</p> <p>9 Q Did you have earplugs?</p> <p>10 A No. Because at that time hearing</p> <p>11 protection wasn't mandatory yet. I believe it</p> <p>12 was around late spring to early summer is when</p> <p>13 they -- Safety mandated hearing protection.</p> <p>14 Q Did he have earplugs?</p> <p>15 A I couldn't vouch for that at that</p> <p>16 time. It depends on what type of hearing</p> <p>17 protection he might have had, it would be hard</p> <p>18 to tell. If he had the ones without the cords</p> <p>19 in it, they could be up in his ears and I</p> <p>20 wouldn't see them unless I was really close to</p> <p>21 him.</p> <p>22 Q Well, you would agree that sleeping on</p> <p>23 the job would certainly put Mr. Dees himself in</p> <p style="text-align: right;">126</p>	<p>1 A Assistant manager. That would be</p> <p>2 correct. But Maintenance is not a direct report</p> <p>3 to me. Greg Prater is his direct report.</p> <p>4 Q But you did not report to Mr. Prater,</p> <p>5 did you?</p> <p>6 A Oh, yeah, I did the next day, along</p> <p>7 with my senior manager, Craig Stapely.</p> <p>8 Q But not then?</p> <p>9 A No. That was one in the morning. I</p> <p>10 wasn't going to call Craig -- or Greg and wake</p> <p>11 him up in the middle of the night. Now, if</p> <p>12 Kevin called him maybe he did, but I don't know</p> <p>13 if Kevin did or not. But I reported it to Kevin</p> <p>14 within a half hour.</p> <p>15 Q And how long did you observe him</p> <p>16 sitting in this sleeping position?</p> <p>17 A To be honest with you about the time I</p> <p>18 come out of these two lanes and come through</p> <p>19 there and squelched my radio, from the time I</p> <p>20 went through here and cut between those trolleys</p> <p>21 and made it over there, it couldn't have been</p> <p>22 probably more than a minute. A minute to two</p> <p>23 minutes at the most.</p> <p style="text-align: right;">128</p>

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<p>1 Q You observed him sleeping for two 2 minutes? 3 A Probably around that time frame. 4 Q Did he have a cell phone in his hand? 5 A Not that I could see. 6 Q What time of night was it? 7 A Probably right around one o'clock. It 8 was after lunch on second shift. 9 Q One a.m.? 10 A Yeah. 11 Q And you say he had his head down? 12 A Yeah. 13 Q Had he made a pillow of some type? 14 A I didn't see any type of pillow. 15 Q Was he wearing a jacket? 16 A I can't recall whether he was or 17 wasn't. 18 Q Did he have on his sleeves? 19 A I can't recall whether he did or 20 didn't. You're supposed to. I can tell you 21 that. If he had his jacket on, I would not have 22 been able to tell if he had sleeves on. 23 Q Had he somehow or another fashioned his</p> <p style="text-align: right;">129</p>	<p>1 eating with the guys that went on the second 2 lunch at 12:15. I usually only take about a 15- 3 to 20-minute lunch. 4 Q What time did you finish lunch? 5 A Probably around 12:30, 12:40. And then 6 I went out to check the press and see if they 7 were getting it started making those parts out, 8 calling the AM down at the Body Shop and let him 9 know we had the job in the press and we were 10 trying to make some side outers. 11 Q So you have a clear recollection it was 12 after you had finished your lunch around 13 12:30 a.m.? 14 A Yeah. 15 Q When I was there yesterday I saw these 16 huge big lights. Were the lights on? 17 A They're spotty. They're energy-saving 18 lights. So spontaneously some of them will shut 19 off for energy consumption savings. 20 Q Were the lights on that night? 21 A Some were. 22 Q How about the lights around the control 23 panel?</p> <p style="text-align: right;">131</p>
<p>1 jacket into some type of pillow? 2 A Not that I could recall. I never seen 3 his jacket in any way, shape, or form rolled up 4 around him or anything. 5 Q What makes you think that the time was 6 around one a.m.? 7 A It was after lunch. It was after lunch 8 on night shift. 9 Q And lunch on night shift is when? 10 A The way it's broke up is typically 11 between 11:15 and midnight and the other one is 12 from midnight to 12:45. 13 Q So there are two 45-minute lunch breaks 14 in the middle of the night? 15 A That's the way we have it for 16 Production. Maintenance is typically right 17 around 11:30 to 12:15. 18 Q And your testimony is it was after the 19 lunch break? 20 A Yeah, it was after everybody had ate. 21 Q Anything that makes you particularly 22 recollect that? 23 A I had personally myself just got done</p> <p style="text-align: right;">130</p>	<p>1 A To honestly tell you if those were on 2 at that point right above that panel, I can't 3 tell you that for sure. I remember what I seen 4 Leon doing. 5 Q I believe I asked you who drew this 6 sketch on the reverse of Exhibit 16. 7 A Yeah, you did. 8 Q And did you tell me? 9 A I didn't know who drew it. I don't 10 know. 11 Q And did you -- I forgot. I apologize. 12 Is that an accurate sketch of what you saw? 13 A Yeah, it's pretty accurate other than 14 the fact, you know, to say these doors were 15 parallel to the way the floor is facing, I 16 couldn't tell you that. But I said I couldn't 17 tell you whether it was actually locked or 18 unlocked. They might have been cracked open. 19 It's not unusual for those Maintenance guys to 20 leave these doors cracked open or laying open a 21 little bit. 22 Q Well, the way the sketch is drawn it 23 looks like the doors were positioned to make a</p> <p style="text-align: right;">132</p>

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<p>1 blind, and you said that wasn't the case?</p> <p>2 MR. JOHNSON: Object to the form.</p> <p>3 A What I can recall, I can't tell you</p> <p>4 whether they were open. I'm positive they</p> <p>5 weren't open parallel to the floor plate, but</p> <p>6 they could have been open some.</p> <p>7 Q But not to make a blind?</p> <p>8 MR. JOHNSON: Object to the form.</p> <p>9 A As far as somebody intentionally using</p> <p>10 it for a blind, I don't know.</p> <p>11 Q What's your opinion?</p> <p>12 MR. JOHNSON: Object to the form.</p> <p>13 A My opinion is that to me it really</p> <p>14 doesn't make a difference what you're doing with</p> <p>15 the doors. I mean, if you're in there working</p> <p>16 on the equipment, you're in there working on</p> <p>17 it. But as far as making a blind out of it, it</p> <p>18 really doesn't make a difference, like I said,</p> <p>19 unless you're coming back here from this</p> <p>20 elevator lift station.</p> <p>21 Q Did you ever speak to Mr. Dees at all?</p> <p>22 A When?</p> <p>23 Q During this incident.</p> <p style="text-align: right;">133</p>	<p>1 A No.</p> <p>2 Q It's the second to last paragraph.</p> <p>3 A This one right here; right?</p> <p>4 Q On 37 it says, last sentence, not long</p> <p>5 after this, Jim witnessed Leon walking down the</p> <p>6 stairs. Is that true?</p> <p>7 A I'm trying to remember. I was hurrying</p> <p>8 back downstairs. Probably in the time frame</p> <p>9 which I talked to Kevin when I was talking to</p> <p>10 Kevin, he came down, because down there in</p> <p>11 the -- on the second floor, we have the rework</p> <p>12 station, and I was down there with those guys</p> <p>13 checking through panels and trying to sort out</p> <p>14 the bad ones from the good ones to supply the</p> <p>15 Body Shop because the entryway to the Body Shop</p> <p>16 is right there on the second floor. And from</p> <p>17 what I can recall, we were out there sorting</p> <p>18 panels. And to say he was walking down</p> <p>19 immediately after I seen him, I can't say that,</p> <p>20 but I can recall that he came down at a later</p> <p>21 time frame. But to say that he done it right</p> <p>22 after I seen him, I can't recall that.</p> <p>23 Q Well, let me just read what it says.</p> <p style="text-align: right;">135</p>
<p>1 A Later on that evening. I didn't see</p> <p>2 him much the rest of the evening after I ran</p> <p>3 into him upstairs and went downstairs because --</p> <p>4 trying to get that side outer to run. I believe</p> <p>5 also that night we had some palletizing problems</p> <p>6 on the other press as well. As far as being</p> <p>7 there and being focused around Leon and talking</p> <p>8 to him in particular, no, I didn't. Like I</p> <p>9 said, he's not a direct report to me, so...</p> <p>10 Q And did you see him walking down the</p> <p>11 stairs after you saw him sleeping?</p> <p>12 A I didn't -- I didn't pay attention. I</p> <p>13 seen he was up and he was moving around. I was</p> <p>14 heading back downstairs to make sure the press</p> <p>15 was running.</p> <p>16 Q Well, I notice in your written</p> <p>17 statement there, Exhibit 13, Bates number 37</p> <p>18 says not long after this, Jim witnessed Leon</p> <p>19 walking down the stairs. Is that true?</p> <p>20 A Which one was it?</p> <p>21 Q Second to last paragraph, number 37.</p> <p>22 A (Witness reviews document.)</p> <p>23 Q See where I'm talking about?</p> <p style="text-align: right;">134</p>	<p>1 It just says not long after this, Jim witnessed</p> <p>2 Leon walking down the stairs. My question is,</p> <p>3 is that a true statement?</p> <p>4 A Yeah, that's a true statement. But,</p> <p>5 like I said, if you are saying immediately, I</p> <p>6 can't say he came down immediately, but he came</p> <p>7 down before I talked to Kevin.</p> <p>8 Q Did you say anything to him?</p> <p>9 A To Leon or Kevin?</p> <p>10 Q Leon.</p> <p>11 A I didn't say anything to Leon. I just</p> <p>12 said he's not a direct report to me, so it's</p> <p>13 not...</p> <p>14 Q Did Kevin say anything to him to your</p> <p>15 knowledge?</p> <p>16 A To my knowledge, no. I don't know.</p> <p>17 Q And was that the last you had to do</p> <p>18 with this sleeping incident other than the</p> <p>19 signing of the two statements that we've seen?</p> <p>20 A Yeah.</p> <p>21 Q Did you attend any disciplinary</p> <p>22 hearings?</p> <p>23 A No.</p> <p style="text-align: right;">136</p>

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<p>1 Q Did you give any further statements or 2 interviews? 3 A No. 4 Q Did anyone, other than after this 5 lawsuit was filed, ever interview you or talk to 6 you about what you saw? 7 A I had one of the Korean -- Korean 8 Maintenance manager he asked me, you know, what 9 I had seen, and I told him what I seen. As far 10 as him being involved in the disciplinary 11 process, I don't know if he was or not. But 12 Mr. Mun came and spoke with me about it. 13 Q And was that shortly after Mr. Dees got 14 terminated or before? 15 A I believe it was before. 16 Q I think Mr. Dees was terminated on or 17 about the 26th of February. You think it was 18 before that? 19 A Yeah, I believe so. 20 Q Let's maybe relate to that a date you 21 might remember. What was the date of your 22 youngest's birth, the one that's seven months 23 old now you said?</p> <p style="text-align: right;">137</p>	<p>1 A He said he wanted to talk to me in the 2 office, and we went in the conference room and 3 closed the door and he just asked me about it. 4 Q There in the Stamping Plant? 5 A Yeah. 6 Q So there's some type of office there in 7 the plant? 8 A Yeah. We've got -- in our Stamping 9 Shop we have two conference rooms. And then in 10 the Maintenance office there's one conference 11 room. 12 Q Was anybody else there when you and 13 Mr. Mun were talking? 14 A Just me and Mr. Mun. 15 Q Did you know why he was asking you 16 about it? 17 A He was just trying to understand what I 18 seen and what I visualized. 19 Q And what did you tell Mr. Mun? 20 A I described the same thing to him what 21 I told you, I went up there to check on side 22 outer panels. Then I showed him -- I was in 23 there with him and I showed in the chair the</p> <p style="text-align: right;">139</p>
<p>1 A That was in May. 2 Q In May. So we can't date that. 3 What was the occasion when Mr. Mun 4 talked to you and asked you about this? 5 A If the 26th is when he was terminated, 6 it had to be that week of right before when all 7 this -- all the stuff was going on. Like I 8 said, I couldn't honestly tell you when the 9 exact day was that he was terminated because I 10 don't know. And I don't know when all the Team 11 Relations meetings went on with him and stuff 12 with Greg and John and all that. All I can tell 13 you is the stuff I was asked and witnessed. 14 Q Well, the date of your last statement 15 is February 19, 2007. 16 A Correct. 17 Q That's Plaintiff's Exhibit 13. You 18 talked to Mr. Mun after that? 19 A Yeah. 20 Q And how did you happen to be talking to 21 him? 22 A He came up and asked me. 23 Q All right.</p> <p style="text-align: right;">138</p>	<p>1 position I see him in. 2 Q So you actually took him up to the 3 site? 4 A No. I just showed him from a chair 5 there in the conference room. 6 Q Okay. What did Mr. Mun say? 7 A He just kind of looked at me. His 8 English isn't very well spoken. So he just kind 9 of looked at me and nodded his head, oh, okay. 10 Q That was it? 11 A Yeah. 12 Q All right. Where is Mr. Greg Prater 13 now? 14 A He had taken a job at some other 15 company up in Tennessee or Kentucky. 16 Q Do you know why he left? 17 A From what I understand, he wasn't happy 18 with what he was doing here. He was wanting to 19 pursue another career, something promotional, or 20 get better options. And the other piece was he 21 was wanting to get closer to home. I think he 22 as one or two kids up in Tennessee. That's what 23 it was, Tennessee.</p> <p style="text-align: right;">140</p>

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<p>1 Q Had you ever heard any discussions 2 between Mr. Prater and Mr. Dees? 3 A I only heard one discussion, and that 4 was the day after we had an incident with Leon 5 where that trolley elevator system I was showing 6 you right here -- the lift station -- him and 7 another employee were working on that around 8 lunchtime, either the day before or two days 9 before. And they had just walked off the job 10 and went to lunch without telling anybody. And 11 we were very close to shutting the Body Shop 12 down. Kevin had to hurry up and go find some 13 other Maintenance Team Members to get that 14 system running before we shut the Maintenance 15 shop down. And the next day Kevin had told 16 Greg, and Greg had asked me to come in the 17 office and was asking me about this incident. 18 And he had called me and my senior manager in 19 there, Craig. And he was talking to me about 20 it. Then it wasn't too long after that he 21 called Leon in there and started asking Leon 22 about it. Leon was like I didn't walk off the 23 F'ing job. He goes, I always do my F'ing job.</p> <p style="text-align: right;">141</p>	<p>1 be present as he asked Leon those questions 2 because I had been there on night shift. I 3 didn't actually know when Leon had left, but I 4 do know that Kevin had to call other people for 5 backup to get the elevator running or we were 6 going to shut the Body Shop down. 7 Q How long before you reported Mr. Dees 8 sleeping did this occur? 9 A This incident here? 10 Q I'm talking about where he used all the 11 profanity. 12 A I think in the conference room office 13 it was the day before. The day before this 14 incident happened. Then the issue with the 15 trolley happened that night -- that night 16 before. All within two days. 17 Q Within two days? 18 A Yeah, a couple of days. 19 Q Was Mr. Prater and Mr. Dees on speaking 20 terms? 21 A I don't know their personal 22 relationship. I mean, he -- obviously Greg 23 was -- Greg was his boss and what I can see I'm</p> <p style="text-align: right;">143</p>
<p>1 And then Greg is like did you tell anybody. 2 Leon was like there wasn't an F'ing problem. I 3 mean, it was -- my boss, he's a preacher, and he 4 got up and walked out. 5 Q What was it, the last thing Mr. Dees 6 said? 7 A He said something about he don't walk 8 off the F'ing job. He tried calling -- let's 9 see. He said he tried calling Kevin on the 10 radio. I forget what he said. He said he tried 11 calling -- I forgot how he said it. I tried -- 12 it had a couple of flavorful words in there, but 13 basically he said he tried getting ahold of 14 Kevin. But without confirmation of getting 15 ahold of Kevin, he still had left with the 16 system down. 17 Q So this was some incident Mr. Dees had 18 left his work area without permission? 19 A I would say so. I mean, he said it was 20 his lunchtime and he's entitled to his lunchtime 21 and he's going to take his F'ing lunch. And he 22 said he tried contacting Kevin and that's -- 23 that's -- but Greg had asked for me and Craig to</p> <p style="text-align: right;">142</p>	<p>1 sure there are assignments and stuff that Leon 2 didn't always agree with that I think Greg asked 3 him to do. But it wasn't nothing out of the 4 ordinary. 5 Q Greg Prater was called a Team Leader. 6 A He was assistant manager. 7 Q Assistant manager. Okay. Was there 8 any kind of disciplinary action about that? 9 A I couldn't tell you. I don't know. 10 Like I said, Greg dealt with that on his own 11 because Craig and I was always if you got some 12 issue, you need to take it behind closed doors 13 and deal with it. It don't need to involve all 14 of us. That's between Greg and John Applegate 15 and Leon. Like I said, Leon is not a direct 16 report to me or Craig. 17 Q Did you ever hear any discussion at 18 that plant about Mr. Dees' National Guard duty? 19 A No. I knew he was in it because him 20 and I had talked personally and I knew he was 21 still in the Reserves, still had duty. 22 Q Since he was not basically -- you were 23 not his direct report how did y'all get in that</p> <p style="text-align: right;">144</p>

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<p>1 conversation?</p> <p>2 A Just being around him on the floor. I</p> <p>3 mean, he's out there with the rest of the guys</p> <p>4 on the floor. I mean, I always try to make sure</p> <p>5 I have a working relationship with people, and,</p> <p>6 you know, even though I didn't have direct</p> <p>7 reports of Maintenance, I'd still try to help</p> <p>8 them get parts and help them get stuff. Because</p> <p>9 the bottom line, their performance affects our</p> <p>10 productivity.</p> <p>11 Q What did Mr. Dees tell you about his</p> <p>12 National Guard?</p> <p>13 A He just told me he was in -- my</p> <p>14 understanding he was in the Reserves and we</p> <p>15 talked a little bit about his military</p> <p>16 background, some time he spent in Korea. And he</p> <p>17 said he still actively does some stuff for the</p> <p>18 military and he has some weekend duties</p> <p>19 sometimes. I didn't know when he went, but I</p> <p>20 knew he was still involved with it.</p> <p>21 Q All right. Any other discussion</p> <p>22 between you and Mr. Dees?</p> <p>23 A I mean, just personable stuff, talking</p> <p style="text-align: right;">145</p>	<p>1 Q No discussion about Mr. Dees?</p> <p>2 A No.</p> <p>3 Q No discussion about you?</p> <p>4 A (Witness shakes head.)</p> <p>5 Q No?</p> <p>6 A No.</p> <p>7 Q Did he know you were in the substance</p> <p>8 abuse program at Hyundai?</p> <p>9 A Greg Prater?</p> <p>10 Q Right.</p> <p>11 A No.</p> <p>12 Q I want to show you a collection of</p> <p>13 documents we've previously marked as Plaintiff's</p> <p>14 Exhibit 9. And there's a Bates number 39. I</p> <p>15 want you to refer to this if you would. That's</p> <p>16 an e-mail transmission dated -- from Greg Prater</p> <p>17 dated February 8, 2007, and it refers to an</p> <p>18 original message from William Ware to</p> <p>19 Mr. Clevenger, copies to Greg Prater. It says,</p> <p>20 Rob, Greg P. and I met with all the TMs in</p> <p>21 question about Leon leaving to go to lunch while</p> <p>22 the lift was down. We came to the consensus</p> <p>23 that a Discussion Planner is needed for the TMs</p> <p style="text-align: right;">147</p>
<p>1 about military or talking about press problems</p> <p>2 or stuff like that.</p> <p>3 Q Tell me, other than the two lawyers</p> <p>4 here today and Mr. Hughes who you've told me</p> <p>5 about, that you've discussed this sleeping</p> <p>6 incident with.</p> <p>7 A Mr. Hughes. And I'm sorry. I</p> <p>8 discussed it with my senior manager, Craig</p> <p>9 Stapely.</p> <p>10 Q Craig Stapely?</p> <p>11 A And discussed it with Mr. Mun and</p> <p>12 discussed it with Greg Prater and John</p> <p>13 Applegate.</p> <p>14 Q When is the last time you talked to</p> <p>15 Greg Prater?</p> <p>16 A It's been when he left. Whenever he</p> <p>17 left. The last day that he was leaving.</p> <p>18 Q So you talked to him the last day he</p> <p>19 was leaving?</p> <p>20 A The last day he left. You know, the</p> <p>21 day before and the last day, just kind of</p> <p>22 shaking his hand and wishing him good luck on</p> <p>23 his new assignment.</p> <p style="text-align: right;">146</p>	<p>1 who left to go to lunch while the lift was down;</p> <p>2 Shane, Drake, and Leon. The TMs performing the</p> <p>3 repair should have waited until help arrived to</p> <p>4 take over the repair. The TL and Leon are not</p> <p>5 on speaking terms and it appears that he blew</p> <p>6 the incident out of proportion and he only</p> <p>7 singled Leon out but for no apparent reason.</p> <p>8 Proper communication and task transfer will be</p> <p>9 the topic of the Discussion Planner. If</p> <p>10 necessary, I can type up all the notes in the</p> <p>11 report, but I didn't think it was necessary if</p> <p>12 Greg and I both agree on the resolution. Let me</p> <p>13 know if I need to. Is that the incident you're</p> <p>14 talking about?</p> <p>15 A Yeah.</p> <p>16 Q Now, I don't see any --</p> <p>17 A I remember Shane being with Leon, too,</p> <p>18 but I don't remember Drake. But I remember Leon</p> <p>19 and Shane.</p> <p>20 Q You testified earlier that Mr. Dees had</p> <p>21 used quite a bit of profanity. You kept using</p> <p>22 the words F'ing. Meaning F-U-C-K-I-N-G; right?</p> <p>23 A Yeah.</p> <p style="text-align: right;">148</p>

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<p>1 Q You said that was throughout that</p> <p>2 conversation.</p> <p>3 A There was damn and hell.</p> <p>4 Q Damn and hell. What other profanity?</p> <p>5 A And shit.</p> <p>6 Q Shit.</p> <p>7 A That's it.</p> <p>8 Q What other profanity?</p> <p>9 A That's the four I can remember.</p> <p>10 Q And, of course, neither you nor</p> <p>11 Mr. Prater and anybody else in that discussion</p> <p>12 used any profanity; would that be true?</p> <p>13 MR. JOHNSON: Object to the form.</p> <p>14 A No, I didn't. Greg didn't use it, and</p> <p>15 Craig definitely didn't use it, and I didn't use</p> <p>16 it either.</p> <p>17 Q Right. So Mr. Dees was out of line in</p> <p>18 your opinion?</p> <p>19 A It was pretty verbally -- I mean,</p> <p>20 normally if a Production Team Member talks like</p> <p>21 that to another Team Member or member of</p> <p>22 management, I'll take corrective action on it.</p> <p>23 What Greg done with it, I don't know. But if a</p> <p style="text-align: right;">149</p>	<p>1 him, kind of like a -- kind of like a team --</p> <p>2 like he tried to lead the guys in kind of a</p> <p>3 negative -- negative way.</p> <p>4 Q Mr. Dees did?</p> <p>5 A Yeah.</p> <p>6 Q So Kevin Hughes is the first person you</p> <p>7 reported the sleeping to; right?</p> <p>8 A Right.</p> <p>9 Q Kevin Hughes is your --</p> <p>10 A He's Maintenance's Team Leader.</p> <p>11 Q Your leader?</p> <p>12 A Greg Prater.</p> <p>13 Q Greg Prater is your leader?</p> <p>14 A No. John Applegate is senior manager</p> <p>15 of Maintenance. Greg Prater reported to John</p> <p>16 Applegate. Kevin Hughes reports to Greg Prater</p> <p>17 and Leon reports to Kevin.</p> <p>18 Q And Kevin is the one that you first</p> <p>19 reported the sleeping to?</p> <p>20 A Correct. Because that's the only</p> <p>21 leadership figure that Maintenance has on night</p> <p>22 shift is Kevin.</p> <p>23 Q And Kevin Hughes is the same person</p> <p style="text-align: right;">151</p>
<p>1 Team Member does that that works for me or any</p> <p>2 member of management that works for me and talks</p> <p>3 to another person like that I get them -- I</p> <p>4 mean, depending on what phase they are in the</p> <p>5 disciplinary process, I'll at least give them a</p> <p>6 Discussion Planner for it. We call them</p> <p>7 Discussion Planners. My boss that's a preacher,</p> <p>8 he's definitely against -- he's a big one</p> <p>9 against --</p> <p>10 Q Your boss would be who?</p> <p>11 A Craig Stapely.</p> <p>12 Q Stapely. And this says the TL and Leon</p> <p>13 are not on speaking terms. Who would that be?</p> <p>14 A That's Kevin Hughes.</p> <p>15 Q And that's the man you reported the</p> <p>16 sleeping incident to first?</p> <p>17 A Correct.</p> <p>18 Q And why weren't Mr. Hughes and Mr. Dees</p> <p>19 on speaking terms?</p> <p>20 A I couldn't -- I mean, I don't know</p> <p>21 their past history or what. I do know that</p> <p>22 Kevin has came to me a couple of times and, you</p> <p>23 know, said that Leon is very standoff-ish to</p> <p style="text-align: right;">150</p>	<p>1 mentioned in this e-mail I just showed you?</p> <p>2 A Yeah. That's correct.</p> <p>3 Q And he would be the TL who wasn't on</p> <p>4 speaking terms with Mr. Dees?</p> <p>5 A (Witness nods head.)</p> <p>6 Q Correct?</p> <p>7 A As far as what their speaking terms</p> <p>8 are, I don't know, but...</p> <p>9 Q Well, that's what this says?</p> <p>10 A Right. He is Leon's Team Leader.</p> <p>11 Q This looks like Mr. William Ware sent</p> <p>12 this. He's the same person that took this</p> <p>13 statement from you?</p> <p>14 A Correct.</p> <p>15 Q So Mr. Ware would have known when he</p> <p>16 took that statement from you that Mr. Kevin</p> <p>17 Hughes and Mr. Dees were not on speaking terms</p> <p>18 according to this?</p> <p>19 A He would be the guy, yeah.</p> <p>20 Q And it says Mr. Dees was singled out</p> <p>21 for no apparent reason. Do you know where that</p> <p>22 came from?</p> <p>23 A (Witness shakes head.)</p> <p style="text-align: right;">152</p>

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<p>1 Q You don't?</p> <p>2 A I mean, I don't know why -- I don't</p> <p>3 know why he would be considered being the one</p> <p>4 singled out. I can tell you I remember Leon had</p> <p>5 been working on it and Shane. I don't recall</p> <p>6 Mr. Drake working on it, but I remember Shane</p> <p>7 and Leon working on that drop.</p> <p>8 Q Well, Shane and Mr. Drake -- what's</p> <p>9 Mr. Drake's first name?</p> <p>10 A That is his first name. It's Drake</p> <p>11 Barefoot.</p> <p>12 Q Shane and Drake Barefoot were not in</p> <p>13 this discussion about this incident that you</p> <p>14 participated in?</p> <p>15 A With Craig? Me and Craig and Greg?</p> <p>16 Q Right.</p> <p>17 A He just called -- I don't know if he</p> <p>18 had already talked to Shane or Drake or who he</p> <p>19 talked to in what order. I know that I was</p> <p>20 there when he had talked to Leon.</p> <p>21 Q Well, this apparently says that Leon</p> <p>22 was singled out as opposed to Shane or Drake,</p> <p>23 doesn't it?</p> <p style="text-align: right;">153</p>	<p>1 already answered.</p> <p>2 A It was talking about that incident that</p> <p>3 happened with the trolley lift station and</p> <p>4 addressing him walking off the job and not</p> <p>5 telling anybody.</p> <p>6 Q So he was cussing in the meeting and</p> <p>7 then cussing leaving the meeting?</p> <p>8 A He said I'm not going to deal with this</p> <p>9 shit and he opened the door and...</p> <p>10 Q Well, do you know why you were in the</p> <p>11 meeting at all?</p> <p>12 A Because I witnessed downtime. I didn't</p> <p>13 witness him walk off the job, but I witnessed</p> <p>14 downtime and that he was the one that was</p> <p>15 working on it. But I don't know when he left,</p> <p>16 but I did witness him and Shane working on it</p> <p>17 and I did know that we almost shut the Body Shop</p> <p>18 down because the elevator was down. There was</p> <p>19 no communication made that he had gone to lunch</p> <p>20 from my understanding.</p> <p>21 Q Did you ever hear anybody at Hyundai,</p> <p>22 other than the discussion you and Leon had, talk</p> <p>23 about Mr. Dees' Guard obligation?</p> <p style="text-align: right;">155</p>
<p>1 A Going by what was put in this right</p> <p>2 here, that's what it appears to be. But as far</p> <p>3 as me knowing anything about him being singled</p> <p>4 out, I don't know. I just know that I was in</p> <p>5 there for when Greg had called Leon into the</p> <p>6 office.</p> <p>7 Q Did Greg call Drake or Shane into the</p> <p>8 office?</p> <p>9 A Not while we were there. After Leon</p> <p>10 had came in there and had spewed out a few cuss</p> <p>11 words, my boss got up and left. He just looked</p> <p>12 at Greg and was like I'm not going to tolerate</p> <p>13 this. He goes I'm leaving.</p> <p>14 Q So you were there just as a witness?</p> <p>15 A Craig had witnessed this talking and</p> <p>16 Leon had walked out. Leon didn't -- he didn't</p> <p>17 stay there. Had he finished uttering out a few</p> <p>18 words and phrases and then he walked out.</p> <p>19 Q What words and phrases?</p> <p>20 A Well, that I was telling you, the hell,</p> <p>21 the damn, and shit and...</p> <p>22 Q Tell me what you remember he said.</p> <p>23 MR. JOHNSON: Object to the form. He's</p> <p style="text-align: right;">154</p>	<p>1 A And that probably -- I mean, we talked</p> <p>2 about him being in the Guard a couple of times,</p> <p>3 but I don't know specifically when his weekends</p> <p>4 were or when his periods were that he had to go</p> <p>5 serve. But I knew he was actively involved in</p> <p>6 it and there was times he had to do weekend duty</p> <p>7 or whatever it was.</p> <p>8 Q Do you know what Hyundai's policy is</p> <p>9 regarding weekend duty?</p> <p>10 A No, I don't. Because back when we had</p> <p>11 talked about that, there was a memorandum, I</p> <p>12 think, that was sent out by Team Relations</p> <p>13 talking about that particular issue and there</p> <p>14 was nobody in our area at the time that was</p> <p>15 actively involved in duty. So I didn't really</p> <p>16 get involved in the policy or the action or the</p> <p>17 course that's taken for that.</p> <p>18 Q You said there was a memorandum put out</p> <p>19 by HR talking about Guard duty?</p> <p>20 A Yeah, there was because there was like</p> <p>21 some other people across the plant. I don't</p> <p>22 know if it was Team Relations or HR or who it</p> <p>23 was, but there was a notice or something put out</p> <p style="text-align: right;">156</p>

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<p>1 that kind of said, hey, here's what we're going 2 to do. I can't recall exactly what it said. 3 But there were some people across the plant that 4 was also involved in the Forces. 5 Q Involved in what? 6 A Forces. Armed Forces. 7 Q And did this come out after the 8 sleeping incident that you say you saw? 9 A I can't recall. It was sometime this 10 year. I would guess it probably was. I don't 11 know. 12 Q And who was it from? 13 A It was either Team Relations or HR. 14 Q And you got a copy? 15 A No, I don't have one. 16 Q What did -- did you get a copy and just 17 throw it away? 18 A Well, we had gotten e-mails sent to 19 us -- I'm pretty sure it was in e-mail format 20 Team Relations, I think. What they had done is 21 we had to go around and check and see who's all 22 actively involved or participating in the Forces 23 or was part of the Forces. And then we didn't</p> <p style="text-align: right;">157</p>	<p>1 Q And since you didn't have any Armed 2 Forces under your immediate supervision -- 3 A I didn't get in touch with the policy 4 or get deeply involved. If we had somebody and 5 they came up to me and said they're serving in 6 the Guard or something like that, then I would 7 go to HR and Team Relations and find out what 8 it -- 9 Q Did it specifically mention Guard duty? 10 A It said -- I believe it said something 11 about serving, serving the Armed Forces or 12 serving duty or something like that. I can't 13 recall if it said National Guard or whatever. 14 Q And what did it say about -- what was 15 the company policy that was in this e-mail? 16 A I can't recall that. 17 Q Was it setting forth the protocol to 18 follow if somebody on Guard duty -- 19 A Yeah, it was basically like -- just 20 like -- like I said, it was either guidelines or 21 policy or something. Just laying it out there 22 so there's no misunderstanding that this is what 23 needs to happen or...</p> <p style="text-align: right;">159</p>
<p>1 have nobody in our area participating in it, so 2 I didn't really find a need for myself to really 3 investigate what we needed to do because we 4 didn't have anybody involved in duty. 5 Q You have a company e-mail address? 6 A Yeah. 7 Q What is it? 8 A Jamesbrookshire@hmmausa.com. 9 Q You would have gotten this through that 10 e-mail? 11 A Yeah. 12 Q And your best judgment is it was after 13 this sleeping incident? 14 A I think. I think. 15 Q And it said what? Some kind of notice? 16 MR. JOHNSON: Object to the form. 17 Q A notice about what? 18 A Just how the company policies apply or 19 the protocol that we follow for people serving 20 duty or serving in the Armed Forces. 21 Q And it was sent to you because you're 22 in a supervisory capacity? 23 A Right.</p> <p style="text-align: right;">158</p>	<p>1 Q Did it refer to the fact that there was 2 a misunderstanding? 3 A No. I think there was questions -- 4 questions brought about. Because, like I said, 5 they have people in General Assembly, people in 6 Paint Shop, I think, also that had Guard duty or 7 served in the Forces. Actually our last Team 8 Member letter that's published, we've got 9 somebody in Iraq right now, and they were 10 talking about how they missed working at the 11 plant and ready to come back and put their 12 uniform on and work back at the plant again. 13 Q Who at HR would have sent out this 14 e-mail? 15 A I don't know. Like I said, it was 16 probably either -- usually notices or 17 information like that is either HR or Team 18 Relations, one of those two. 19 Q Who would be the people? Would it be 20 Wendy Warner maybe? 21 A Wendy or Rob. 22 Q Rob Clevenger? 23 A Rob Clevenger or Wendy Warner.</p> <p style="text-align: right;">160</p>

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<p>1 Q So you think it was one of those two?</p> <p>2 A Yeah. It would have to be one of those</p> <p>3 two or their assistants, or sent out on their</p> <p>4 behalf.</p> <p>5 Q And was it a mass e-mail to everybody?</p> <p>6 A Typically for information purposes,</p> <p>7 they usually send it to -- they've usually got</p> <p>8 -- the acronym they use is HMMA all and it goes</p> <p>9 out to everybody on the e-mail system.</p> <p>10 Q Did it ever refer to whether or not</p> <p>11 military orders would be required for Reserve</p> <p>12 duty?</p> <p>13 A I can't recall that.</p> <p>14 MR. KILBORN: I want to take a break.</p> <p>15</p> <p>16 (Whereupon, a brief recess was had in</p> <p>17 the proceeding.)</p> <p>18</p> <p>19 BY MR. KILBORN:</p> <p>20 Q Okay. Was your wife at this party</p> <p>21 where you were snorting that cocaine?</p> <p>22 A She wasn't. She was only there for a</p> <p>23 couple of hours.</p> <p style="text-align: right;">161</p>	<p>1 their computers, but I don't know if it's like</p> <p>2 for interconference calls or whatever at their</p> <p>3 desk.</p> <p>4 Q So HMC headquarters in Seoul; right?</p> <p>5 A Yeah.</p> <p>6 Q They were monitoring the --</p> <p>7 A Press repair.</p> <p>8 Q -- press repair from Seoul?</p> <p>9 A I think so. They've got some</p> <p>10 organization they've got called Global Command</p> <p>11 Center or something like that where they monitor</p> <p>12 all the KPIs, key performance indexes, for all</p> <p>13 the plants and any major catastrophic problems</p> <p>14 or anything. Our press was down for about a</p> <p>15 month, and that's big downtime, big concern.</p> <p>16 Q Did you get any orientation when you</p> <p>17 began work at Hyundai or had some since then</p> <p>18 about the company organization relationship</p> <p>19 between Hyundai Motor Corporation, AMC, HMMA, or</p> <p>20 HMA?</p> <p>21 A Any meetings?</p> <p>22 Q Yeah. Any orientation where the</p> <p>23 relationship was discussed.</p> <p style="text-align: right;">163</p>
<p>1 Q But she was there?</p> <p>2 A Yeah, she was there in the earlier part</p> <p>3 of the...</p> <p>4 Q When did she learn that you snorted</p> <p>5 cocaine and ended up being found out at the</p> <p>6 Hyundai plant?</p> <p>7 A I told her when -- that day when I</p> <p>8 tested positive and when I went through all</p> <p>9 that.</p> <p>10 Q She didn't know before then?</p> <p>11 A No. She knew I had -- in my younger</p> <p>12 years I had done it a couple of times.</p> <p>13 Q Are there any cameras in that Stamping</p> <p>14 Plant?</p> <p>15 A There's some, I believe, externally on</p> <p>16 the outsides of the building to kind of view</p> <p>17 what's going on outside in some of the parking</p> <p>18 lots. They had had some set up inside the plant</p> <p>19 just recently when we broke the press, and HMC</p> <p>20 was monitoring the press repair from</p> <p>21 headquarters. But that was -- as far as any</p> <p>22 other ones internally, I don't know of any. I</p> <p>23 know some of the Koreans have the web cams on</p> <p style="text-align: right;">162</p>	<p>1 A They had put us through what they --</p> <p>2 well, not all of us. But what they've been</p> <p>3 trying to do is put everybody through what they</p> <p>4 call cultural training, HMC culture training.</p> <p>5 And they'll take, Team Members, management</p> <p>6 members, and all that. They had sent me last</p> <p>7 year right before my wife -- about two weeks</p> <p>8 before she was due to have the baby -- sent me</p> <p>9 to Korea for a week. But they picked Team</p> <p>10 Members, management members and sent them</p> <p>11 together as a group over to Korea. And they've</p> <p>12 been doing that off and on for a couple of</p> <p>13 years, just to kind of learn their culture and</p> <p>14 learn their ways and stuff.</p> <p>15 Q They took you out of your drug abuse</p> <p>16 program?</p> <p>17 A No, no. This was last year.</p> <p>18 Q 2006?</p> <p>19 A 2006, yes, sir.</p> <p>20 Q Did they tell you that this is just one</p> <p>21 big company really --</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 Q -- run by Seoul HMC?</p> <p style="text-align: right;">164</p>

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<p>1 A Their philosophy is it's a company 2 working together in harmony to build the 3 quality -- highest quality automobiles for 4 people in the world.</p> <p>5 Q Right. Well, what I'm hearing is that 6 HMC controls everything; is that true?</p> <p>7 MR. JOHNSON: Object to the form.</p> <p>8 A No, they don't control everything, but 9 I mean, it's -- my opinion, if I was starting -- 10 just like Toyota or Honda when they first 11 started their first plant in a new country, 12 they're going to have active involvement on how 13 the company is structured, how it's ran to make 14 sure the business is going to prosper, because 15 they had a company they tried running in Canada 16 and had some problems there and it ended up not 17 making it. So I think they know that they need 18 to take an active foothold in making sure the 19 company is going to be prosperous and move in 20 the right direction or otherwise they're going 21 to lose a lot of money.</p> <p>22 Q And who is they?</p> <p>23 A HMC and HMA. It's in their best</p> <p style="text-align: right;">165</p>	<p>1 they're working through. I wouldn't say HMC is 2 controlling everybody and telling them what to 3 do.</p> <p>4 Q How about HMA?</p> <p>5 A They don't have much of an influence on 6 us. I mean, that's our sales group. That's our 7 sales group, and they kind of -- really the only 8 involvement they have with us as far as giving 9 us an understanding of our production schedule 10 and our orders and how much overtime we need to 11 work to fulfill those orders.</p> <p>12 Q HMA does that?</p> <p>13 A Yeah, they give you a sales forecast.</p> <p>14 Q So you run production to meet the sales 15 forecast HMA puts out?</p> <p>16 A Yeah.</p> <p>17 Q Is that in written form?</p> <p>18 A I'm not involved with that. That's 19 something that's done with Production Control. 20 Production Control figures out what all the 21 other departments need to do and the suppliers 22 and they kind of disseminate the information and 23 give it to us.</p> <p style="text-align: right;">167</p>
<p>1 interest to make sure the company is moving in 2 the right direction. They've already -- just 3 our plant alone they've already reduced the 4 Korean head count activity in our Stamping 5 Department because we used to have like 15 6 Koreans in our department. Now we only have 7 probably six.</p> <p>8 Q You started in 2005?</p> <p>9 A Yes, sir, August.</p> <p>10 Q So the HMC and HMA desired and actually 11 had active control to make sure that the 12 operations got up and running correctly?</p> <p>13 A (Witness nods head.) And still it's 14 still a young plant. We're still working bugs 15 out now, but it's progressed a lot from what it 16 was a couple of years ago.</p> <p>17 Q Was that a yes to my last question? 18 You nodded your head.</p> <p>19 A Yes. Sorry.</p> <p>20 Q And is that active control by HMC and 21 HMA still present?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 A There's a joint partnership that</p> <p style="text-align: right;">166</p>	<p>1 Q Is HMA -- do they have people on the 2 scene at the Hyundai plant?</p> <p>3 A We used to have a guy, Mr. Duckworth, 4 but he went back to HMA out in California. He 5 was our major presence for HMA. My 6 understanding is we have people that come in off 7 and on into our plant, but as far as having 8 direct people from HMA at our plant, I don't 9 know of any and where they're at.</p> <p>10 Q Outside of the sleeping incident, do 11 you know of any employment problems that's 12 Mr. Dees had at Hyundai?</p> <p>13 A The only other issue I know about 14 besides the issue with the elevator system that 15 was in the e-mail, the sleeping problem, Greg 16 had mentioned to me a couple of times he had 17 some issues with Leon kind of being defiant on 18 doing some work. And that's about it.</p> <p>19 Q Tell me what you remember there.</p> <p>20 A Just him thinking that he doesn't need 21 to go clean up messes or clean up after 22 himself. We've got areas that we agreed to -- 23 between Production and Maintenance we agreed to</p> <p style="text-align: right;">168</p>

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<p>1 clean up in the plant. And we -- Production is 2 responsible for the baler area. We clean up the 3 baler area and Maintenance is responsible for 4 cleaning up the press pits. And a lot of those 5 Maintenance guys -- I know Greg had mentioned 6 Leon, he didn't like to go down there and do his 7 share of cleaning up the press pit. He had 8 problems with that before.</p> <p>9 Q And the press pit is on the basement 10 level underneath the two giant presses?</p> <p>11 A Yes, sir.</p> <p>12 Q And that's where the shards and pieces 13 left over from the Stamping process come down 14 the shoot, hit the conveyor belt, and go off to 15 the baling area?</p> <p>16 A They have what they call the scrap 17 metal slugs -- they call them slugs, punch 18 pieces. Oil drips out of the press from leaks 19 and stuff like that.</p> <p>20 Q And have you been down in the pit when 21 it's operating?</p> <p>22 A Yeah, I've been down there.</p> <p>23 Q Describe that for me.</p> <p style="text-align: right;">169</p>	<p>1 just besides the little round slugs, aren't 2 there?</p> <p>3 A Basically what makes it out to the 4 floor is slugs. That's basically what -- 5 because they're small and they fall out from the 6 sides of the conveyor. Most of the scrap metal 7 comes down the shoots which are enclosed shoots 8 and hit the conveyor.</p> <p>9 Q And Mr. Dees didn't like to be in the 10 pit?</p> <p>11 MR. JOHNSON: Object to the form.</p> <p>12 A Me asking him personally or knowing him 13 personally, I can't vouch for that, but I know 14 Greg had told me he had some issues with Leon 15 going down there and doing his job in the pit. 16 They had like a rotation set up where guys took 17 turns going down to the pit and cleaning the 18 pit. I know from what I understand he had some 19 problems with Leon going down there and doing 20 his.</p> <p>21 Q Mr. Dees didn't like the pit, did he?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 A I don't know.</p> <p style="text-align: right;">171</p>
<p>1 A Just, you mean, like the environment or 2 the sound or everything there?</p> <p>3 Q Everything.</p> <p>4 A The press pit you definitely have to 5 wear hearing protection. There's oil spots in 6 certain places like where it's dripping down 7 from either the blank washer, the press 8 hydraulic units, or what have you. And then the 9 scrap comes down the shoots and it's pretty 10 noisy coming down the shoots and hits the 11 conveyor and rolls out on the conveyor. 12 Sometimes those little slugs bounce out of the 13 sides of the conveyor. But you can't -- if you 14 get anywhere near the conveyor, they've got what 15 they call an E stop switch that you pull if 16 anything emergency happens and it shuts 17 everything off, shuts the press off, conveyor 18 off and everything there.</p> <p>19 Q There's a lot more than slugs that 20 comes out of there, isn't there? Isn't there 21 giant metal shards?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 Q And all kinds of sharp pieces of metal</p> <p style="text-align: right;">170</p>	<p>1 Q Did anybody like the pit?</p> <p>2 A I don't what they -- I've been down 3 there cleaning scrap up and oil up myself just 4 to show people I'll get in there and work with 5 them just to say, hey, it's not that bad of a 6 job.</p> <p>7 Q How many decibels is the noise in the 8 pit when the two presses are running?</p> <p>9 A I couldn't vouch for that, but I know 10 at the back of the presses it's 90, 95. 90 to 11 95 decibels.</p> <p>12 Q What is the level at which permanent 13 hearing loss is a danger?</p> <p>14 MR. JOHNSON: Object to the form.</p> <p>15 A Over 85 decibels over an extended 16 eight-hour period you experience hearing loss.</p> <p>17 Q And this is about 90?</p> <p>18 A If you stand right there at the back of 19 the press consistently. That's right back there 20 where the opening is at the back of the press. 21 Currently right now we're purchasing sound 22 deadening material because we're trying to make 23 an effort -- consorted effort with Safety to</p> <p style="text-align: right;">172</p>

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<p>1 reduce the decibels so people don't have to wear</p> <p>2 hearing protection in the area anymore.</p> <p>3 Q And are Kevlar sleeves mandatory in the</p> <p>4 pit?</p> <p>5 A Yes.</p> <p>6 Q Is hard hat mandatory in the pit?</p> <p>7 A Yes.</p> <p>8 Q Safety goggles mandatory in the pit?</p> <p>9 A Yes.</p> <p>10 Q Steel-toe shoes mandatory in the pit?</p> <p>11 A Yes.</p> <p>12 Q Any other safety gear mandatory?</p> <p>13 A If you're going to be picking up like</p> <p>14 the metal scrap you were talking about, you've</p> <p>15 got to wear gloves.</p> <p>16 Q Kevlar gloves?</p> <p>17 A Yes.</p> <p>18 Q Was one of Leon's jobs in the pit</p> <p>19 picking up the metal shards?</p> <p>20 A Yeah.</p> <p>21 Q Anybody ever get cut doing that?</p> <p>22 A Usually if you're wearing your PPE most</p> <p>23 of the time you won't get cut unless you're</p> <p style="text-align: right;">173</p>	<p>1 Q What you were doing it was dangerous</p> <p>2 because it went right through your Kevlar glove;</p> <p>3 isn't that true?</p> <p>4 MR. JOHNSON: Object to the form.</p> <p>5 A There's ways you can handle the metal</p> <p>6 that will reduce the danger of the job. And</p> <p>7 that's -- that was just -- me personally I was</p> <p>8 in a hurry trying to get the press running. I</p> <p>9 was yanking it out. You can take the shards or</p> <p>10 scrap pieces and you can bend them into pieces</p> <p>11 and get poles and yank them out with poles and</p> <p>12 stuff.</p> <p>13 Q Well, see if you can answer this</p> <p>14 question. Isn't it true that the pit is a</p> <p>15 dangerous, noisy, oily place to work?</p> <p>16 MR. JOHNSON: Object to the form.</p> <p>17 A It's -- I mean, it's got noise because</p> <p>18 of the presses running. It's going to be noisy</p> <p>19 anywhere there are presses. 5400 tons, that</p> <p>20 kind of pressure is going to generate noise. As</p> <p>21 far as the oil, just like a car that ages, with</p> <p>22 time you're going to have some oil leaks. It's</p> <p>23 Maintenance's responsibility to fix those leaks</p> <p style="text-align: right;">175</p>
<p>1 really tugging on a sharp piece of metal and</p> <p>2 they'll kind of cut through the glove. But as</p> <p>3 far as I know, I haven't heard anybody that's</p> <p>4 been wearing their PPE got hurt like that.</p> <p>5 Q And you got cut because of why?</p> <p>6 A I was doing exactly what I just told</p> <p>7 you. I was -- we had a piece of scrap stuck</p> <p>8 down in the scrap shoot from above. When the</p> <p>9 die cuts off the trim edge, it goes into the</p> <p>10 scrap shoot which goes to the pit. Sometimes</p> <p>11 those will get backed up or a panel will fall</p> <p>12 off inside the scrap shoot and then the scrap</p> <p>13 will back up. Then we have to pull all that</p> <p>14 scrap out by hand. And there was a piece stuck</p> <p>15 in there and I yanked on it and it just -- it</p> <p>16 will go right through the glove.</p> <p>17 Q And it went right through your glove?</p> <p>18 A Yeah.</p> <p>19 Q That's a Kevlar glove?</p> <p>20 A Yeah.</p> <p>21 Q So it's dangerous, isn't it?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 A Depends on what you're doing.</p> <p style="text-align: right;">174</p>	<p>1 as they come about.</p> <p>2 Q So it's not oily?</p> <p>3 A I wouldn't call it excessive oily.</p> <p>4 Q But it's oily?</p> <p>5 A Yeah, there's oil down there.</p> <p>6 Q Oil is slippery, isn't it?</p> <p>7 A Yes.</p> <p>8 Q Even in steel-toe shoes it's slippery?</p> <p>9 MR. JOHNSON: Object to the form.</p> <p>10 A It can be if you've got puddles of it</p> <p>11 everywhere, yeah. Of course it can be</p> <p>12 slippery. I mean, that's also part of us buying</p> <p>13 our industrial boots.</p> <p>14 Q Did you ever see anybody taking</p> <p>15 photographs of the control panel area where you</p> <p>16 claim Mr. Dees was sleeping?</p> <p>17 A Have I seen anybody taking pictures?</p> <p>18 Q Right.</p> <p>19 A Huh-uh.</p> <p>20 Q Have you ever seen any photographs of</p> <p>21 that area?</p> <p>22 A No.</p> <p>23 Q Is that area the same today as it was</p> <p style="text-align: right;">176</p>

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<p>1 when you say you saw Mr. Dees sleeping?</p> <p>2 A I'm trying to think. The only</p> <p>3 different thing that's up there right now from</p> <p>4 that picture, there's an orange ladder that's</p> <p>5 laying up there, been laying up there. I mean,</p> <p>6 there's no chair up there. And somebody drew</p> <p>7 that wire spool. I don't remember that wire</p> <p>8 spool. There's nothing out in front of that</p> <p>9 cabinet right now.</p> <p>10 MR. KILBORN: Thank you,</p> <p>11 Mr. Brookshire. That's all I have.</p> <p>12 EXAMINATION</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q Mr. Brookshire, I've got a couple of</p> <p>15 follow-up questions. Some I just want to make</p> <p>16 sure I'm clear on a couple of things.</p> <p>17 The incident where you injured your</p> <p>18 hand was that actually done in the pit or was</p> <p>19 that up on the Production level at the</p> <p>20 Stamping --</p> <p>21 A It was on the Production level.</p> <p>22 Q So that wasn't actually in the pit?</p> <p>23 A No, sir.</p> <p style="text-align: right;">177</p>	<p>1 serious misconduct?</p> <p>2 A Yes, sir.</p> <p>3 Q Okay. And Mr. Kilborn asked you to</p> <p>4 circle some bullet points, and one of the ones</p> <p>5 that you circled was -- I guess it's the fifth</p> <p>6 bullet point -- use, possession, sale, transfer</p> <p>7 of, or being under the influence of illegal</p> <p>8 drugs, alcohol, or any other intoxicating</p> <p>9 substance at any time on HMMA property; correct?</p> <p>10 A Yeah.</p> <p>11 Q Now, just to go back and clarify. Did</p> <p>12 you ever use illegal drugs, alcohol, or any</p> <p>13 other intoxicating substance on HMMA property?</p> <p>14 A No, sir.</p> <p>15 Q Did you ever possess any illegal drugs,</p> <p>16 alcohol, or intoxicating substances on HMMA</p> <p>17 property?</p> <p>18 A No, sir.</p> <p>19 Q Did you ever sell any illegal drugs,</p> <p>20 alcohol, or other intoxicating substances on</p> <p>21 HMMA property?</p> <p>22 A No, sir.</p> <p>23 Q Okay. Did you ever transfer or give or</p> <p style="text-align: right;">179</p>
<p>1 Q Mr. Brookshire, you reviewed</p> <p>2 Plaintiff's Exhibit Number 15 with Mr. Kilborn;</p> <p>3 correct?</p> <p>4 A Yes, sir.</p> <p>5 Q And just to make sure, when Mr. Kilborn</p> <p>6 asked you to review the list, I think you looked</p> <p>7 at some of the bullet points there; correct?</p> <p>8 A Yes, sir.</p> <p>9 Q And did you also review or read into</p> <p>10 the Record what follows those bullet points?</p> <p>11 A The bullet points that I circled, I</p> <p>12 read most of the bullet point. I mean, I didn't</p> <p>13 finish that one or that one towards the end.</p> <p>14 Q Did you read the final sentence there</p> <p>15 that says the aforementioned list is not all</p> <p>16 inclusive?</p> <p>17 A No, I didn't. I didn't see that.</p> <p>18 Q You did not see that?</p> <p>19 A No.</p> <p>20 Q You understand what that means?</p> <p>21 A Right. There could be other issues</p> <p>22 that aren't included on this list.</p> <p>23 Q Other things that may constitute</p> <p style="text-align: right;">178</p>	<p>1 receive any illegal drugs, alcohol, or other</p> <p>2 intoxicating substances at any time on HMMA</p> <p>3 property?</p> <p>4 A No, sir.</p> <p>5 Q Were you ever under the influence of</p> <p>6 illegal drugs, alcohol, or other intoxicating</p> <p>7 substances at any time on HMMA property?</p> <p>8 A I wasn't under the influence, but I</p> <p>9 know that I tested positive.</p> <p>10 Q And what do you mean by you know you</p> <p>11 weren't under the influence?</p> <p>12 A As in the immediate debilitating</p> <p>13 effects of drugs or alcohol.</p> <p>14 Q You often hear the term impairment.</p> <p>15 Were you impaired at any time because of illegal</p> <p>16 drugs, alcohol, or other intoxicating substances</p> <p>17 on HMMA property?</p> <p>18 A No.</p> <p>19 MR. KILBORN: I'm going to object to</p> <p>20 that as to him being an expert on what's</p> <p>21 impaired.</p> <p>22 Q Okay. Have you ever used any illegal</p> <p>23 drugs, alcohol, or any other intoxicating</p> <p style="text-align: right;">180</p>

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<p>1 substances immediately prior to coming to work?</p> <p>2 A No, sir.</p> <p>3 Q Had you ever felt drunk at work?</p> <p>4 A No. Tired, not drunk.</p> <p>5 Q Mr. Kilborn had asked you about a wire</p> <p>6 spool that was on a drawing that somebody had</p> <p>7 made. Is it your testimony that you recall that</p> <p>8 there was no wire spool there at the time you</p> <p>9 saw Mr. Dees sleeping, or is it that you don't</p> <p>10 remember whether it was there or not?</p> <p>11 MR. KILBORN: I object to counsel</p> <p>12 leading his own witness.</p> <p>13 A I don't remember it being there.</p> <p>14 Q Okay. You had mentioned to Mr. Kilborn</p> <p>15 this Mr. Mun had come and spoken to you at some</p> <p>16 point. Do you recall whether he received a</p> <p>17 telephone call from Mr. Dees' wife?</p> <p>18 A Yes, he did.</p> <p>19 Q Do you remember what he said about the</p> <p>20 call from Dees' wife?</p> <p>21 A I think something to the effect that</p> <p>22 his wife didn't feel that it was right for what</p> <p>23 happened and he should not be getting any kind</p> <p style="text-align: right;">181</p>	<p>1 didn't you?</p> <p>2 A I didn't have anything -- I didn't</p> <p>3 possess anything.</p> <p>4 Q You knew about that, didn't you?</p> <p>5 MR. JOHNSON: Object to the form.</p> <p>6 A (No response.)</p> <p>7 Q You didn't know that was possible?</p> <p>8 A I don't have this whole book memorized.</p> <p>9 Q Let's see if you've got the rest of it</p> <p>10 memorized. HMMA also considers off-the-job</p> <p>11 illegal drug use as proper cause for</p> <p>12 disciplinary action up to and including</p> <p>13 termination of employment. You read that?</p> <p>14 A Yeah.</p> <p>15 Q And you are guilty of off-the-job</p> <p>16 illegal drug use, aren't you?</p> <p>17 MR. JOHNSON: Object to the form.</p> <p>18 A I showed up positive in a urine screen.</p> <p>19 Q That's not my question. You are guilty</p> <p>20 of off-the-job illegal drug use, aren't you?</p> <p>21 A Going by a urine specimen, yes, I am.</p> <p>22 Q Well, going by what you know you did,</p> <p>23 which is snort cocaine --</p> <p style="text-align: right;">183</p>
<p>1 of discipline for doing that on the job, that he</p> <p>2 didn't do anything wrong.</p> <p>3 MR. JOHNSON: I think I'm about done if</p> <p>4 we could take a quick break so I could talk to</p> <p>5 Chris.</p> <p>6</p> <p>7 (Whereupon, a brief recess was had in</p> <p>8 the proceeding.)</p> <p>9</p> <p>10 MR. JOHNSON: I'm done.</p> <p>11 FURTHER EXAMINATION</p> <p>12 BY MR. KILBORN:</p> <p>13 Q Mr. Brookshire, would you look at</p> <p>14 Plaintiff's Exhibit 15, the handbook? And if</p> <p>15 you'll look on page 38 and 39, it's got specific</p> <p>16 handbook rules on drug and alcohol, doesn't it?</p> <p>17 A Yeah. I haven't -- like I said, I</p> <p>18 haven't reviewed everything, but...</p> <p>19 Q Well, let me help you. Look at the top</p> <p>20 of page 39. The third line down says any</p> <p>21 illegal substance will be turned over to the</p> <p>22 appropriate law enforcement agency and criminal</p> <p>23 prosecution may result. You knew about that,</p> <p style="text-align: right;">182</p>	<p>1 MR. JOHNSON: Object to the form.</p> <p>2 Q -- you violated this policy, didn't</p> <p>3 you?</p> <p>4 A Yeah.</p> <p>5 Q And isn't it true that you have shown</p> <p>6 up at work at Hyundai with alcohol on your</p> <p>7 breath?</p> <p>8 MR. JOHNSON: Object to the form.</p> <p>9 A No, I haven't.</p> <p>10 Q You have not. All right. And you say</p> <p>11 in response to your lawyer's questions that you</p> <p>12 had, I think, gotten over the debilitating</p> <p>13 effects of alcohol and cocaine by the time you</p> <p>14 had showed up at work; is that true?</p> <p>15 A What's that?</p> <p>16 Q You told your lawyer you had gotten</p> <p>17 over the debilitating effects of alcohol and</p> <p>18 cocaine by the time you went to work?</p> <p>19 A That would be correct.</p> <p>20 Q When did you get over the debilitating</p> <p>21 effects of both the alcohol and the cocaine?</p> <p>22 MR. JOHNSON: Object to the form.</p> <p>23 A I don't know the mathematical</p> <p style="text-align: right;">184</p>

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<p>1 calculations off the top of my head.</p> <p>2 Q What's your best judgment?</p> <p>3 A Alcohol is out of your body within 24</p> <p>4 hours.</p> <p>5 Q Well, I'm not talking about anybody's</p> <p>6 body. When did you, Jim Brookshire, get over</p> <p>7 the effects of cocaine and alcohol that you had</p> <p>8 consumed at that party at this gentleman's</p> <p>9 house?</p> <p>10 A The incident had happened on Saturday,</p> <p>11 and I was over the debilitating effects by</p> <p>12 Sunday.</p> <p>13 Q What time Sunday?</p> <p>14 A I don't know. I was fine, out mowing</p> <p>15 the yard by lunchtime Sunday.</p> <p>16 Q So you didn't even have a hangover;</p> <p>17 right?</p> <p>18 A (Witness shakes head.)</p> <p>19 Q No?</p> <p>20 A No. Tired. Tired and thirsty.</p> <p>21 Q Did the cocaine make you thirsty or the</p> <p>22 alcohol?</p> <p>23 A Alcohol.</p> <p style="text-align: right;">185</p>	<p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA)</p> <p>4</p> <p>5 COUNTY OF AUTAUGA)</p> <p>6</p> <p>7</p> <p>8 I hereby certify that the above and</p> <p>9 foregoing deposition was taken down by me in</p> <p>10 stenotype, and the questions and answers thereto</p> <p>11 were transcribed by means of computer-aided</p> <p>12 transcription, and that the foregoing represents</p> <p>13 a true and accurate transcript of the testimony</p> <p>14 given by said witness upon said hearing.</p> <p>15 I further certify that I am neither of</p> <p>16 counsel, nor kin to the parties to the action,</p> <p>17 nor am I in anywise interested in the result of</p> <p>18 said cause.</p> <p>19</p> <p>20</p> <p>21 -----</p> <p>21 STACEY L. JOHNSON, Commissioner</p> <p>22 Certified Court Reporter,</p> <p>22 ACCR#: 386 - Expires 09-30-08</p> <p>23 Commission Expires 06-22-2011</p> <p style="text-align: right;">187</p>
<p>1 MR. KILBORN: That's all my questions.</p> <p>2 Thank you.</p> <p>3 FURTHER EXAMINATION</p> <p>4 BY MR. JOHNSON:</p> <p>5 Q Just to follow up with you,</p> <p>6 Mr. Brookshire. Mr. Kilborn referenced on page</p> <p>7 39 of the Team Member Handbook, which was been</p> <p>8 marked as Plaintiff's Exhibit 15, the last</p> <p>9 sentence in the first partial paragraph on page</p> <p>10 39 it says HMA also considers off-the-job</p> <p>11 illegal drug use as proper cause for</p> <p>12 disciplinary action up to and including</p> <p>13 termination from employment. Was the</p> <p>14 conditional offer of employment to your</p> <p>15 knowledge some form of disciplinary action?</p> <p>16 MR. KILBORN: Object. Leading.</p> <p>17 A Most definitely.</p> <p>18 MR. JOHNSON: That's all I have.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 FURTHER DEPONENT SAITH NOT</p> <p style="text-align: right;">186</p>	

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JERRY LEON DEES, JR.,

Plaintiff,

v.

HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, and HYUNDAI MOTOR
AMERICA, INC.,

Defendants.

CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC

DECLARATION OF ROB CLEVINGER

1. My name is Robert A. Clevenger. I am over eighteen (18) years of age, and I have personal knowledge regarding the information contained in this Declaration.

2. I am employed by Hyundai Motor Manufacturing Alabama, LLC as Assistant Manager, Team Member Relations in the Team Relations Department.

3. My responsibilities as Assistant Manager, Team Member Relations include overseeing the investigation of potential disciplinary issues involving Team Members, overseeing the maintenance of documents, information, and files concerning such investigations, and making a presentation to a termination committee on behalf of Team Relations concerning its investigation and related information in situations where an employee is being considered for termination.

4. In particular, I was directly involved in the investigation of Plaintiff Jerry Leon Dees, Jr., with respect to allegations that Jim Brookshire, HMMA's Stamping Production Manager, reported seeing Plaintiff asleep during his shift on February 14, 2007.

5. Under my supervision and instruction, Team Relations Specialist William Ware interviewed Brookshire on February 15, 2007, and prepared a handwritten statement for Brookshire to sign confirming their discussion. A true and accurate copy of the handwritten statement is attached as **Attachment A**.

6. Upon reviewing this initial statement, it was determined that additional confirming information would be helpful in the investigative process and, accordingly, under my supervision and instruction, William Ware interviewed Brookshire again on February 19, 2007, and prepared a handwritten statement for Brookshire to sign confirming their discussion. A true and accurate copy of the handwritten statement is attached as **Attachment B**.

7. Additionally, Team Relations received information from Plaintiff following an interview of Plaintiff conducted by Plaintiff's supervisor, Greg Prater, and attended by William Ware. A Team Relations Memo is customarily prepared following such a meeting and William Ware did in fact prepared such a memo, dated February 21, 2007, which was made part of Team Relations' file materials. A true and accurate copy of this Team Relations Memo is attached as **Attachment C**.

8. On February 23, 2007, I prepared a Team Relations Memo summarizing Team Relations' findings, Plant Engineering Department's recommendation, and information on relevant past practice. In sum, Plant Engineering Department's recommendation was termination given the circumstances, including Brookshire's statements, the fact that the area where Plaintiff was observed is an isolated area suggestive of intent, and, further, given that

Plaintiff's response contained inconsistencies with other evidence and because his response suggested a lack of concern about his job. The past practice considered in this situation involved another employee who, similar to Plaintiff, was discovered sleeping during working hours and was terminated as a result. A true and accurate copy of this Team Relations Memo is attached as **Attachment D**.

9. On February 26, 2007, I attended the termination committee meeting and presented Team Relations' findings, recommendations, and the above-referenced documents to the committee for consideration. Others that attended the termination committee included Wendy Warner, John Kalson, John Applegate, Rick Neal, and Scott Gordy. A true and accurate copy of the electronic appointment that I sent to these individuals scheduling the termination committee meeting held on February 26, 2007, and listing all of the attendees of termination committee, is attached as **Attachment E**.

10. My role in the termination committee process is simply to provide information for the termination committee to consider. Although Team Relations does ordinarily make a recommendation based on its findings, I do not technically have a "vote" on the termination committee and the termination committee is free to disregard Team Relations' findings or request further information before taking action.

11. The information and statements received by Team Relations, including information received from Plaintiff, and the memoranda prepared by Team Relations, contained no information suggesting that Plaintiff was a member of the uniformed services or that he felt he was being harassed by any HMMA Team Member, or that he was otherwise protected by the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301, et seq. ("USERRA") in any relevant aspect. At the time the termination committee met, the

information and documents presented and upon which Plaintiff's termination was based contained no suggestion that Plaintiff was a member of the uniformed service. Likewise, whether or not Plaintiff was a member of the uniformed service was not raised or discussed during the termination committee process and was not a basis or motivating factor related to the discussion, analysis, or decision surrounding his termination.

12. After Plaintiff's employment was terminated, Wendy Warner, the Manager of HMMA's Employment & Benefits Section, instructed me to write a letter to Plaintiff for her signature regarding HMMA's Team Member Review Board process. A true and accurate copy of the letter I wrote to Plaintiff is attached as **Attachment F**.

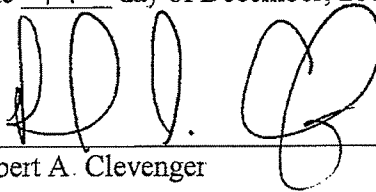
13. The Team Member Review Board process allows Team Members who feel they have been wrongfully terminated to request a review of that termination by a random selection of trained and qualified Team Members.

14. I left Plaintiff separate telephone messages to contact me regarding the Team Member Review Board process on March 2, 2007, March 5, 2007, and March 7, 2007. In the March 7th letter described in paragraph 12 above, I informed Plaintiff that to continue the Team Member Review Process he would have had to attend a meeting with me on March 12, 2007 at 10:00 a.m. to review the process and select a Team Member panel.

15. Plaintiff telephoned and left a message on March 10, 2007 stating that he received the May 7th letter described in paragraph 12 above and that he could not attend the meeting on March 12, 2007.

16. I received no further contact from Plaintiff and am not aware of any additional contact from Plaintiff about his desire to participate in the Team Member Review Process.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing information is true and correct. Executed this the 14 day of December, 2007.



Robert A. Clevenger

EXHIBIT

A

Interview with Jim Brookshire

On Feb/4 at approx. 1:00 AM, Jim went upstairs to check on some quality issues in the SOP. (Side outer)

Jim went up to the 3rd floor where he noticed Leon Deo sitting at operating station. Leon was positioned with his head down and his back was towards the cabinet.

Jim observed Leon sitting in this position for approx. 2 minutes.

At this time Jim turned up his radio and let it chirp about 4 times before Leon responded.

Whenever Leon woke up he grabbed a pole and began to act like he was pulling trolleys.

Jim went around to check some panels and when he approached the area again he noticed Leon sitting in the same chair; however, this time he was alert. Not long after this Jim witnessed Leon walking down the stairs.

About 30 minutes passed by before Jim talked to Mr. Kevin Hughes. During this time Kevin did not know where Leon was.

J-A BL 2-15-07

EXHIBIT

tabbies

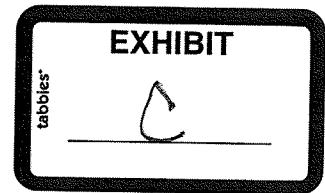
B


Jim was approximately 25 feet away from Leon when he noticed that he was asleep.

Jim walked towards Leon and began chirping his radio at a distance approx 15 feet.

Due to Leon's hat being on his head Jim did not see his eyes closed; however he (Jim stated that his head was facing towards the floor, with his chin tucked to his chest)

J. A. B. J.
2-19-07

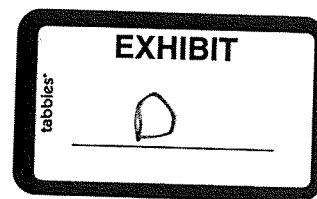



 HYUNDAI Hyundai Motor Manufacturing Alabama	TEAM RELATIONS MEMO	HR-AL-HR-TR-F-00002
Revision Date: 05/26/06	Owner: Team Relations	Revision Level: 02

TO: Rob Clevenger
FROM: William Ware
DATE: February 21, 2007
SUBJECT: Leon Dees

Interview with Leon Dees, William Ware, and Greg Prater

Greg began our talk with Leon by informing him that a member of management noticed him on the third floor asleep on the morning of February 8th. Leon responded, "I was not asleep, I know exactly who you are talking about, call Jim Brookshire in here and I will confront him right now." Greg calmed Leon down and explained that the reason why we had assembled into the room was so that we could get his side of the story. Leon stated that he was sitting in a chair text messaging his daughter due to the bad weather outside. His location was at the RO 1 station. Leon stated that this event took place around 10:30-11:30 pm. Leon also contends that Jim never approached him. In fact when asked what was the closest Jim came to him he replied about "55 feet." Leon made the following comment several times; he sat and watched Jim walk around on the third floor; however, he is to the point where he does not care about what people say. He went on to say that we complain over and over again but nothing happens, so I just don't care anymore. "If something breaks then I will fix it but I will not run the shop like I used to."



 HYUNDAI Hyundai Motor Manufacturing Alabama	Team Relations Memo	HR-AL-HR-TR-F-00002
Revision Date: 9-Sept-04	Owner: Team Relations	Revision Level: 00

TO: Greg Kimble

FROM: Rob Clevenger

DATE: February 23, 2007

SUBJECT: Leon Dees/ Term


Summary: On February 14, 2007 at approximately 1am, Jim Brookshire (mgr, stamping) was in the stamping third level looking at a quality issue. The third level overhead is approximately 75ft off the ground. It is an isolated area. This is where the side outer panels are warehoused in overflow.

Jim noticed Leon sitting in front of a panel in a chair. Jim states Leon was asleep with his head down and his chin tucked to his chest. Jim states he was 25ft away when he first noticed Leon. Two doors of the panel were open which served as a blind and hide Leon from most views. He moved to within 15ft of Leon and observed him for approximately Two (2) minutes. At that time Jim keyed the mike on his radio and it made a chirping sound several times. At this sound Leon lifted his head then got up and picked up a tool used to clear carrier when they become inoperable.

Leon did not speak to Jim or explain his presence in the overhead. Jim also noted there were no carriers that were in need of service. There is no reason for a maintenance person to be in the overhead unless there is an immediate need for carrier repair.

In Leon's statement he says the time was 10:30pm to 11:30pm. He also states he was sitting in the overhead text messaging his daughters regarding the weather and was not asleep. Leon states Jim never got closer than 50ft from him. Leon became agitated and stated he didn't give a damn and was tired of this shit.

Conclusion: Leon's statement does not match the timeline or the proximity described by the stamping manager. I believe we must give weight to the manager's account and assume that the event took place at 1am on Wednesday morning. The storms had passed our area by 7:15pm on Tuesday evening. I have a signed statement by the stamping manager that he was 15ft from Leon and observed him for 2 minutes. There was a chair placed in between the two open doors. The area is several feet off the floor and is an area that a maintenance man would enter fix a carrier and then leave. There is not a need or a practice where a person would need a chair and be waiting in that area for a breakdown to occur. The department is asking for termination.

 HYUNDAI Hyundai Motor Manufacturing Alabama	Team Relations Memo	HR-AL-HR-TR-F-00002
Revision Date: 9-Sept-04	Owner: Team Relations	Revision Level: 00

Past Practice:

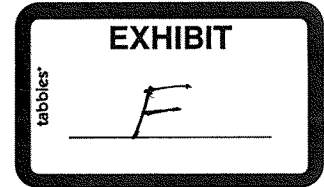
10270 5	King	Ontario	Engine	3-Jan-06	Inappropriate conduct	Sleeping during work hours
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REDACTED - PRIVILEGED

EXHIBIT
E

**HYUNDAI**

Motor Manufacturing Alabama, LLC
700 Hyundai Blvd.
Montgomery, AL 36105



March 7, 2007

Jerry Leon Dees Jr.
14808 US Hwy 82
Maplesville, AL 36750

Dear Leon:

You were left a phone message on March 2, 2007, stating you had met the contact requirement for Team Member Review. On March 5, 2007 and again on March 7, 2007 you were contacted but a phone-answering machine was reached.

To continue the Team Member Review process you must meet with Rob Clevenger on Monday March 12, 2007 at 10:00am to review the process and select your panel. At that time you will be given the date and time of your review panel meeting. Please come to the security building at gate 3 at the specified time above.

Sincerely,

Wendy Warner
Manager, Employment
Hyundai Motor Manufacturing Alabama, LLC

TM DID NOT
ATTEND THIS
MEETING. HE LEFT
A PHONE MSG ON
SATURDAY 3/10/07
STATING HE RECEIVED THE
LETTER BUT COULD NOT
ATTEND. NO FURTHER
CONTACT FROM MR. DEES

Dees v. HMMA 0321
Docs Produced

11/15/07

Additional Doc Produced JTS

Exhibit 3

FREEDOM COURT REPORTING

Page 5	Page 7
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 5 CASE NUMBER: 2:07-cv-00306-MHT-CSC 6 JERRY LEON DEES, JR., 7 Plaintiff, 8 vs. 9 HYUNDAI MOTOR MANUFACTURING 10 ALABAMA, LLC, and HYUNDAI 11 MOTOR AMERICA, INC., 12 Defendants. 13 BEFORE: 14 ANGELA SMITH MCGALLIARD, Commissioner. 15 APPEARANCES: 16 VINCENT KILBORN, ESQUIRE, of 17 KILBORN, ROEBUCK & MCDONALD, 1810 Old 18 Government Street, Mobile, Alabama 36606, 19 appearing on behalf of the Plaintiff. 20 JEFFREY R. SPORT, ESQUIRE, of 21 KILBORN, ROEBUCK & MCDONALD, 1810 Old 22 Government Street, Mobile, Alabama 36606, 23 appearing on behalf of the Plaintiff.</p>	<p>1 I, ANGELA SMITH MCGALLIARD, RPR, 2 CRR, a Court Reporter of Pike Road, Alabama, 3 acting as Commissioner, certify that on this 4 date, as provided by the Federal Rules of 5 Civil Procedure and the foregoing 6 stipulation of counsel, there came before me 7 at the offices of Freedom Court Reporting, 8 416 S. Perry Street, Montgomery, Alabama 9 36104, beginning at 9:10 a.m., Jerry Leon 10 Dees, Jr., witness in the above cause, for 11 oral examination, whereupon the following 12 proceedings were had: 13 JERRY LEON DEES, JR., 14 being first duly sworn, was examined and 15 testified as follows: 16 MR. KILBORN: Court reporter, 17 can you keep the time for us? 18 COURT REPORTER: Certainly. 19 Usual stipulations? 20 MR. JOHNSON: I assume that 21 means the usual stipulations that we've got 22 in the guidelines -- 23 MR. KILBORN: Witness waives</p>
Page 6	Page 8
<p>1 APPEARANCES (continued): 2 MATTHEW K. JOHNSON, ESQUIRE, of 3 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, 4 The Ogletree Building, 300 North Main 5 Street, Greenville, South Carolina 29602, 6 appearing on behalf of the Defendants. 7 CHRISTOPHER N. SMITH, ESQUIRE, of 8 HYUNDAI MOTOR MANUFACTURING ALABAMA, 700 9 Hyundai Boulevard, Montgomery, Alabama 10 36105, appearing on behalf of the 11 Defendants. 12 ALSO PRESENT: Katherine Dees 13 Bobby Hall 14 ***** 15 16 17 18 19 20 21 22 23</p>	<p>1 the reading and signing and all objections 2 except as to the form are reserved until 3 trial. 4 MR. JOHNSON: Sounds fine with 5 me. 6 EXAMINATION 7 BY MR. JOHNSON: 8 Q. Okay, Mr. Dees, my name is 9 Matt Johnson. I practice law at Ogletree, 10 Deakins. And I'm here basically to ask you 11 some questions about yourself and about this 12 case, and what you know about this case, and 13 other people that might know about the case. 14 This may seem like a fairly 15 formal proceeding, but I'm sort of here to 16 have a conversation with you and just ask 17 you questions. 18 Let me tell you up front, 19 occasionally I'm thinking two or three 20 questions down the line; and for better or 21 for worse, sometimes I ask questions that 22 don't make sense, and I apologize. If I do 23 that, I want you to stop me, and let me know</p>

2 (Pages 5 to 8)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 9</p> <p>1 that. Don't be embarrassed. I'm fairly 2 thick skinned; and if I don't make sense or 3 my questions don't make sense, that's okay 4 with me. You just let me know because I 5 just want to make sure you're comfortable 6 and that you're answering questions that you 7 understand. Okay? 8 A. I'll do it. 9 Q. And the other thing, our court 10 reporter here is typing up everything that 11 we say. And she's probably got one of the 12 harder jobs of any of us today, so we want 13 to make her job as easy as we can. The best 14 way to do that is to make sure we speak up 15 loud and clear. Okay? 16 A. Roger. 17 Q. And if you can, Roger may 18 work, assuming that means yes. But I'd 19 prefer, and I'm sure our court reporter 20 would prefer it if you could say yes or no. 21 Is that okay? 22 A. Yes. 23 Q. Again, nods, shrugs of the</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. And you swear to tell the 2 truth? 3 A. Whole truth, nothing but the 4 truth, so help me God. 5 Q. Okay. And are you on any 6 medication that would prohibit you from 7 understanding me or my questions? 8 A. No, sir. 9 Q. Are you on any medication that 10 would prohibit you from being able to answer 11 truthfully and accurately? 12 A. I'm not on any type of 13 medication. 14 Q. Thank you. 15 If you would give me your full 16 name, including your middle name. 17 A. Jerry Leon Dees, Junior. 18 Q. Have you ever gone by any 19 other names? 20 A. No, sir. Yeah. Staff 21 sergeant. 22 Q. What's your date of birth? 23 A. [REDACTED] '65.</p>
<p style="text-align: right;">Page 10</p> <p>1 shoulders, things of that nature are 2 difficult for her to write up, so make sure 3 everything you want to get across to me or 4 to her is in loud, clear, spoken English. 5 Okay? 6 A. No problem. 7 Q. I appreciate it. 8 And this is not an endurance 9 contest. It's probably going to take longer 10 than you or I want it to, but that's just 11 the way it goes, and I apologize in advance. 12 What I want to make sure you understand is 13 that you can take a break whenever you want 14 to; you can try to get something to drink if 15 we can find something; you can use the 16 restroom; you can stand up and walk around 17 as you'd like. Okay? 18 A. Yes, sir. 19 Q. Okay. Finally, I just want to 20 make sure before we get started into the 21 heart of things that you understand this is 22 sworn testimony? 23 A. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Where were you born? 2 A. [REDACTED], Alabama. 3 Q. [REDACTED]? 4 A. Yes, sir. 5 Q. Where is that? 6 A. [REDACTED] County. 7 Q. What's that near? 8 MR. SPORT: It's an hour north 9 of here. 10 A. It's out in the middle of the 11 woods. 12 (Off-the-Record discussion 13 was held.) 14 Q. What's your current address? 15 A. [REDACTED], 16 [REDACTED], Alabama [REDACTED]. 17 Q. And do you own a house -- Is 18 that a house? 19 A. Yes, sir. 20 Q. Do you own it or rent it? 21 A. Well, the bank owns it right 22 now. Give me about thirteen more years, and 23 I might own it.</p>

3 (Pages 9 to 12)

FREEDOM COURT REPORTING

Page 13	Page 15
<p>1 Q. Do you have any secondary 2 residences? 3 A. Yeah. The armory one weekend 4 a month. 5 Q. And where do you work 6 currently? 7 A. International Paper, 8 Prattville Mill. 9 Q. What do you do at the 10 Prattville mill? 11 A. Millwright, maintenance. 12 Q. How long have you been there? 13 A. Few months. 14 Q. Okay. Do you remember which 15 month you started? 16 A. Approximately four months ago. 17 Q. Okay. And when you started 18 there four months ago, were you doing 19 millwright/maintenance? 20 A. Yes, sir. 21 Q. And prior to that, where did 22 you work? 23 A. BE&K Construction Company at</p>	<p>1 A. Maintenance supervisor. 2 Q. Who is Neil Causey's boss? 3 A. I have no idea. 4 Q. Okay. 5 A. I haven't been there in a 6 month. I've been at an Army school for the 7 last month, so I don't know. 8 Q. Okay. What kind of Army 9 school have you been at? 10 A. BNCOC Phase II and III, Staff 11 NCO Advanced Leadership School. 12 Q. Now, one thing I want to ask 13 you to do, both for my sake and for our 14 court reporter's sake. I know throughout 15 this deposition we're going to refer to a 16 lot of Army terms, and say them slow or 17 spell them or do whatever you can to make 18 sure it gets on the Record clearly. 19 A. It's B-N-C-O-C, Basic 20 Noncommissioned Officers Course. 21 Q. Okay. If you can, I know you 22 guys use a lot of abbreviations and stuff, 23 for purposes of this, if you could make sure</p>
Page 14	Page 16
<p>1 that mill. 2 Q. At the Prattville mill? 3 A. Yes, sir. 4 Q. What were you doing for BE&K? 5 A. Millwright, millwright and 6 welder. 7 Q. Was that different than what 8 you're doing now? 9 A. Not really, no. 10 Q. Prior to BE&K where was the 11 last place you worked? 12 A. Hyundai. 13 Q. Do you remember what month you 14 started work at BE&K? 15 A. 27 February '07. 16 Q. Okay. And who is your 17 supervisor at the Prattville mill? 18 A. Neil Causey. 19 Q. Can you spell Causey? 20 A. Causey, C-A-U-S-E-Y, I 21 believe. I'm not sure. 22 Q. Okay. What is his position at 23 the mill?</p>	<p>1 and give us the full, plain spoken English. 2 A. No acronyms? 3 Q. Just define them before you 4 start using them. Okay? 5 A. All right. 6 Q. Tell me, what is your Social 7 Security number? 8 A. [REDACTED]. Why? 9 Q. You say why -- Why did I ask? 10 A. Yes, sir. 11 Q. Well, because I'm taking your 12 deposition. 13 And your driver's license 14 number? 15 A. [REDACTED]. 16 Q. Is that an Alabama license? 17 A. Yes, sir. 18 Q. Is it restricted in any way? 19 A. Negative. 20 Q. Okay. You don't wear glasses? 21 A. No, sir. 22 Q. And I'm assuming -- We have 23 some other people here today, and I'm</p>

4 (Pages 13 to 16)

FREEDOM COURT REPORTING

Page 17

1 assuming one of them is your wife?
 2 A. Yes, sir.
 3 Q. Okay. And what is her name?
 4 A. [REDACTED].
 5 Q. [REDACTED] with a K?
 6 A. [REDACTED], Yun, Y-U-N,
 7 Dees.
 8 Q. How long have y'all been
 9 married?
 10 A. Twenty-two years.
 11 Q. And where is she from?
 12 A. [REDACTED].
 13 Q. And prior to Mrs. Dees that's
 14 here with us today, have you ever been
 15 married before?
 16 A. No, sir.
 17 Q. Do you and Mrs. Dees have any
 18 children?
 19 A. Two.
 20 Q. What are their names?
 21 A. [REDACTED], [REDACTED], [REDACTED],
 22 common spelling, Dees; [REDACTED], [REDACTED],
 23 [REDACTED], common spelling, Dees.

Page 18

1 Q. How old are [REDACTED] and
 2 [REDACTED]?
 3 A. Twenty-one and sixteen --
 4 seventeen. She just had a birthday.
 5 Q. I assume those are the only
 6 two children you have?
 7 A. Roger. Yes, sir.
 8 Q. Okay. Do you have other
 9 relatives by blood or marriage that live in
 10 Alabama?
 11 A. A lot of them.
 12 Q. You do?
 13 A. Yes, sir.
 14 Q. Tell me the names or towns
 15 where they might live.
 16 A. Oh, God.
 17 Q. Let me explain why I'm asking.
 18 At some point we may have to pick a jury in
 19 this case, I don't want your cousin, aunt,
 20 or uncle sitting on the jury.
 21 A. You're probably out then.
 22 I've got relatives all over the state, all
 23 the way up to South Carolina, Fort Bragg,

Page 19

1 all the way out to California.
 2 Q. I'm only interested in the
 3 ones in Alabama.
 4 A. Well, I don't know.
 5 Q. You can give me their last
 6 names, can't you?
 7 A. Yeah. Dees, Mobley,
 8 Patterson, Bates, Peek. Heck I could go on
 9 all day. I don't know.
 10 Q. How do you spell Peek?
 11 A. P-E-E-K.
 12 Q. I'm assuming this jury will be
 13 drawn from people that live somewhere in
 14 proximity to Montgomery. Do most of your
 15 relatives live in and around Montgomery?
 16 A. I have some in Montgomery but
 17 not most of them, no. Like I said, they're
 18 scattered throughout the state.
 19 Q. The ones that live in
 20 Montgomery, can you give me the names of
 21 some of the ones that live in or around
 22 Montgomery. By the way, I need you to
 23 answer.

Page 20

1 A. I'm trying -- She knows more
 2 of my family than I do. I grew up in
 3 Alabama, but all I do is work.
 4 MR. KILBORN: You can't talk
 5 to Katherine. He just wants to know what
 6 you know.
 7 A. Distant cousins, no, I don't
 8 know them.
 9 Q. I'm assuming you're a U.S.
 10 citizen?
 11 A. Yes, sir.
 12 Q. Did you graduate from high
 13 school?
 14 A. Clay County High School,
 15 Ashland, Alabama.
 16 Q. And when did you graduate?
 17 A. May '83.
 18 Q. And did you go to college?
 19 A. Some college.
 20 Q. Where?
 21 A. Didn't graduate. Through the
 22 military, University of Maryland, Wallace
 23 Community College in Selma, and J.P. Tech.

5 (Pages 17 to 20)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 21</p> <p>1 Q. J.P. Tech?</p> <p>2 A. Yeah. It's Faulkner now, I</p> <p>3 believe.</p> <p>4 Q. Say that again.</p> <p>5 A. They changed the name to</p> <p>6 Faulkner.</p> <p>7 Q. Faulkner Tech?</p> <p>8 A. I'm not sure what it is. It</p> <p>9 was John Patterson Technical College when I</p> <p>10 went there.</p> <p>11 Q. Okay. You mentioned one in</p> <p>12 between the military University of Maryland</p> <p>13 and J.P. Tech, what was that?</p> <p>14 A. Wallace Community College,</p> <p>15 Selma.</p> <p>16 Q. And you did not get a degree</p> <p>17 from any of those three institutions?</p> <p>18 A. No, sir.</p> <p>19 Q. And what did you study at the</p> <p>20 military University of Maryland?</p> <p>21 A. It wasn't military. It was</p> <p>22 the University of Maryland, when I was in</p> <p>23 the military.</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Wallace was welding.</p> <p>2 Q. In welding, can you get some</p> <p>3 sort of certification for that?</p> <p>4 A. Yes, sir, if you stay there</p> <p>5 the whole two years.</p> <p>6 Q. All right.</p> <p>7 A. I had a family to feed, I</p> <p>8 couldn't afford to stay there the whole two</p> <p>9 years.</p> <p>10 Q. So you did not become</p> <p>11 certified?</p> <p>12 A. No, sir.</p> <p>13 Q. And you're doing some welding</p> <p>14 now at the Prattville mill?</p> <p>15 A. When it -- When it arises,</p> <p>16 yes, sir.</p> <p>17 Q. Okay. Is that something that</p> <p>18 you would need to be certified for?</p> <p>19 A. I got certified through one of</p> <p>20 the companies I worked for. But as far as</p> <p>21 actual certification, unless you're welding</p> <p>22 on a boiler, or any type of military</p> <p>23 equipment, stuff like that, no, you don't --</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Got it.</p> <p>2 A. Just core, basics, science,</p> <p>3 English, math.</p> <p>4 Q. And at J.P. Tech or Faulkner?</p> <p>5 A. Maintenance program.</p> <p>6 Q. How much time did you spend at</p> <p>7 the University of Maryland?</p> <p>8 A. I don't know. Depends on how</p> <p>9 often I was deployed. I don't know, maybe a</p> <p>10 year. I don't know. I mean, it was off and</p> <p>11 on. It wasn't on a campus. Military brings</p> <p>12 instructors in to the bases and the posts,</p> <p>13 and you'll meet at a building there. And I</p> <p>14 had a certified college instructor, and</p> <p>15 that's where you had the classes. I was</p> <p>16 never on the campus, except for J.P. Tech</p> <p>17 and Wallace.</p> <p>18 Q. What kind of maintenance did</p> <p>19 you study at J.P. Tech?</p> <p>20 A. Hydraulics, pneumatics,</p> <p>21 electrical, blueprint reading, basic</p> <p>22 maintenance technician studies.</p> <p>23 Q. Okay. What about --</p>	<p style="text-align: right;">Page 24</p> <p>1 If it's a pressurized vessel, you need a</p> <p>2 certification; if it's not pressurized or</p> <p>3 done to code -- some code you can get by</p> <p>4 welding without a certification, like on</p> <p>5 water tanks and stuff, you just have be able</p> <p>6 to pass X-rays.</p> <p>7 Q. Okay. But now you're</p> <p>8 certified?</p> <p>9 A. Well, I don't know if it is</p> <p>10 still current or not to be honest. It was</p> <p>11 before I went to work for Hyundai.</p> <p>12 Q. Who were you working with?</p> <p>13 A. Sim-Cala.</p> <p>14 Q. Sim-Cala. Other than the</p> <p>15 schooling you got at University of Maryland,</p> <p>16 J.P. Tech, Wallace Community College in</p> <p>17 Selma, have you attended any other classes</p> <p>18 or seminars since you got out of high</p> <p>19 school?</p> <p>20 A. Just the classes that</p> <p>21 International Paper sent all their</p> <p>22 maintenance people to.</p> <p>23 Q. Okay. What was that?</p>

6 (Pages 21 to 24)

367 VALLEY AVENUE
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FREEDOM COURT REPORTING

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1 A. Well, I mean, same thing. We
 2 got precision skilled craftsman classes,
 3 it's a forty- or eighty-hour class, I can't
 4 remember. Same thing, hydraulic classes,
 5 welding classes.
 6 Q. And did IP pay for that?
 7 A. Yes.
 8 Q. And did they pay you for your
 9 time away from work or how did that work?
 10 A. Instead of going to work, we
 11 went to the schools.
 12 Q. You got paid for the time?
 13 A. Yes, sir.
 14 Q. And how many hours was that?
 15 A. Altogether at different
 16 schools, I have no idea. I mean, skilled
 17 craftsman class was just one school. We
 18 went to the same thing just like J.P. Tech,
 19 blueprint reading classes, hydraulics. It
 20 could go anywhere from a day to two or three
 21 weeks, depending on what class it was. That
 22 was several years back.
 23 Q. That was at -- I think you

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1 worked at International Paper before you
 2 came to Hyundai?
 3 A. Yes, sir.
 4 Q. Okay. Let's go back and talk
 5 about your employment history before
 6 Hyundai. Do you remember when you started
 7 with Hyundai?
 8 A. It was either 19 or 21
 9 November '05.
 10 Q. All right. Let's walk
 11 backwards. Where were you working until
 12 November of '05?
 13 A. International Paper, Thorsby.
 14 Q. I'm sorry?
 15 A. I was at a different mill than
 16 I am now. I was at the Thorsby mill.
 17 Q. How do you spell Thorsby?
 18 A. T-H-O-R-S-B-Y.
 19 Q. How long were you at the
 20 Thorsby mill?
 21 A. Six years.
 22 Q. Do you remember -- So you
 23 would have started in '99?

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1 A. I believe so.
 2 Q. And during the time period
 3 that you were at the Thorsby mill, what did
 4 you do?
 5 A. I started out as just a
 6 regular maintenance man. And when I left, I
 7 was a maintenance leadman.
 8 Q. And what does a maintenance
 9 leadman do?
 10 A. Schedules the work for all the
 11 other shifts, for the -- all four
 12 maintenance shifts we had; I was in charge
 13 of the major projects; I basically handled
 14 everything while the supervisor just took
 15 care of all the paperwork.
 16 Q. Okay.
 17 A. All the major calls, I'd
 18 respond to the major breakdowns, decide what
 19 action we was going to take, let the
 20 supervisor know what was going on, and go
 21 from there.
 22 Q. Was that similar to what you
 23 were doing at Hyundai?

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1 A. No, sir.
 2 Q. Okay. How was it different?
 3 A. At Hyundai I was just a
 4 regular maintenance technician.
 5 Q. You said you had done regular
 6 maintenance at the Thorsby mill also?
 7 A. Yes, sir.
 8 Q. Was what you were doing at the
 9 Thorsby mill consistent with what you were
 10 doing at Hyundai?
 11 A. Yes, sir.
 12 Q. Tell me what you were doing at
 13 the Thorsby mill as a regular maintenance
 14 person?
 15 A. Same thing, answer calls; work
 16 orders that came down, I'd handle them;
 17 breakdowns; break-ins; welding; hydraulics;
 18 pneumatics; electrical; just regular
 19 maintenance work.
 20 Q. But what you were doing at the
 21 Thorsby mill was essentially the same as
 22 what you were later doing at Hyundai?
 23 A. Yes, sir. Basically.

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<p style="text-align: right;">Page 29</p> <p>1 Q. How much were you getting paid 2 at Thorsby mill for maintenance? 3 A. Fifteen -- No. I topped out 4 -- I went to the pay for skills program, it 5 was eighteen something. 6 Q. Per hour? 7 A. Yes, sir. I started out at 8 fifteen, and topped out at eighteen 9 something. 10 Q. And what about as a 11 maintenance leadman? 12 A. Twenty dollars, little over 13 twenty dollars. 14 Q. How long did you work as a 15 maintenance leadman? 16 A. Approximately three years, I 17 believe. I think. I'm not sure. 18 Q. Okay. Who -- As a -- When you 19 were a regular maintenance tech, who was 20 your supervisor? 21 A. John Allen. 22 Q. Allen? 23 A. A-L-L-E-N.</p>	<p style="text-align: right;">Page 31</p> <p>1 to have, better benefits. Had better 2 benefits there than any place I've ever had, 3 even in the military. 4 Q. Okay. 5 A. Better pay. Like I say, that 6 was the job to have. 7 Q. When you say job to have, you 8 mean generally in the community, or just for 9 you personally? 10 A. No. Everywhere around where I 11 lived, it was either Mercedes or Hyundai, 12 everybody was wanting to go to one of the 13 two. 14 Q. Okay. 15 A. They both had outstanding 16 benefits, the work conditions weren't near 17 as rigorous as what we had. It was in a 18 controlled environment, air conditioned in 19 the summer, heated in the winter. And pay, 20 pay was a lot better than any wood yard you 21 were going to work on. 22 Q. Okay. Did you know anybody 23 that was working for Hyundai before you went</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. And when you were a 2 maintenance leadman, who was your 3 supervisor? 4 A. John Allen. 5 Q. What was his role? 6 A. He was a maintenance 7 supervisor on the old part of the mill. 8 There was two parts to the mill, we had an 9 old part and a new part, and he had 10 everything on the old side. 11 Q. Okay. And how much -- When 12 you started at Hyundai, what were you making 13 per hour? 14 A. Nineteen fifty-six. 15 Q. What were you making when you 16 left? 17 A. Twenty-three thirty-five. 18 Q. And what were the 19 circumstances of you leaving the Thorsby 20 mill? Why did you leave? 21 A. Go to work for Hyundai. 22 Q. Okay. 23 A. That was a -- That was the job</p>	<p style="text-align: right;">Page 32</p> <p>1 to work there? 2 A. Yes, sir. A couple of 3 production people from the mill I worked at 4 had gotten jobs down there in production. 5 Q. Who was that? 6 A. Lamar Powell; I can't remember 7 Mike's last name. Mike somebody, I can't 8 remember his last name. And another guy we 9 called him Scooby, I don't know his real 10 name. 11 Q. Okay. Scooby? 12 A. Yes, sir. 13 Q. Okay. Did you talk to Lamar 14 Powell or Mike or Scooby about coming to 15 work for Hyundai before you came? 16 A. No, sir. When we left the 17 plant -- They probably left the plant six 18 months before I got hired on there. The 19 hours they were working, nobody talked to 20 them. 21 Q. Okay. They were working -- 22 A. Long hours. 23 Q. Okay. What -- Once you came</p>

8 (Pages 29 to 32)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 33</p> <p>1 to work for Hyundai, did you talk to Lamar 2 Powell or Mike or Scooby? 3 A. Scooby, no. Lamar and Mike, a 4 couple of times. 5 Q. Okay. Did you talk to them 6 about your military career or uniformed 7 service or anything like that as -- 8 A. They asked was I going back to 9 Iraq any time soon, and I told them I didn't 10 know. 11 Q. Okay. Anything else y'all 12 talked about in terms of your military 13 career? 14 A. Asked me was I still in, yeah. 15 Q. I assume they were not members 16 of the Guard? 17 A. No, sir. 18 Q. Did you talk to them about 19 Greg Prater at all? 20 A. No, sir. 21 Q. Did you talk to them about 22 Kevin Hughes at all? 23 A. No, sir.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. At the foundry? 2 Q. Uh-huh. 3 A. Maintenance. It was more 4 welding than anything. 5 Q. Okay. And give me your dates 6 of employment at Sim-Cala. 7 A. I don't know. I mean, I don't 8 know. That was years ago. 9 Q. Okay. 10 A. I don't know. 11 Q. Okay. Do you remember who 12 your supervisor was? 13 A. Huh-uh. I can't remember his 14 name. He was a short fellow. I can't 15 remember his name. 16 Q. Okay. Did you have any sort 17 of on-the-job training with Sim-Cala? 18 A. Yeah. They're the ones that 19 sent me to J.P. Tech. You had to go to J.P. 20 Tech. And, no, I wasn't paid. 21 Q. Did they send you at night? 22 A. Yes, sir. I had to complete 23 my ten-hour work shift, then go to school.</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Did you talk to them about 2 John Applegate at all? 3 A. I don't think so. 4 Q. Okay. 5 A. I'd see them -- They worked 6 production, they was on the line. You may 7 get to talk to them a minute at the most, 8 because they don't stop the line. Because 9 if the line stops, it ain't good. 10 Q. Okay. And going back to your 11 employment history, let's talk about your 12 work prior to going to IP at the Thorsby 13 mill. Where did you work before that? 14 A. Sim-Cala. 15 Q. And what did you do at 16 Sim-Cala? 17 A. Maintenance. 18 Q. And when you say maintenance, 19 were you doing basically the same thing you 20 were doing as a regular maintenance person 21 at the IP Thorsby mill? 22 A. Yes and no. It was a foundry. 23 Q. And what were you doing there?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Okay. And what was the reason 2 for the termination of the position at 3 Sim-Cala? 4 A. Wasn't termination. I quit -- 5 left there to go to International Paper. 6 Q. Why? 7 A. Better pay. I mean, make a 8 better living for my family. 9 Q. Anything other than better 10 pay? 11 A. Yeah. We didn't have good 12 insurance. I mean, that was -- Sim-Cala was 13 a rough job. I mean, it was a rough job. 14 Even in the winter time, it was a 15 hundred-some-odd degrees in the plant. 16 Don't nobody want to work there. 17 Q. Okay. Is it still in 18 business? 19 A. I have no idea. 20 Q. Where was Sim-Cala? 21 A. Off the Mt. Meigs exit here in 22 Montgomery. 23 Q. Mt. Meigs?</p>

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<p>1 A. Uh-huh.</p> <p>2 Q. And prior to Sim-Cala, where</p> <p>3 did you work?</p> <p>4 A. Miller Mechanical. It is a</p> <p>5 company out of New York.</p> <p>6 Q. What did you do for them?</p> <p>7 A. Worked shutdowns in paper</p> <p>8 mills.</p> <p>9 Q. So you traveled for that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Were you married then?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Imagine that was rough?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How long were you with them?</p> <p>16 A. Several years.</p> <p>17 Q. Do you remember what years?</p> <p>18 A. No, sir. To be honest, no.</p> <p>19 Q. And what -- you say you did --</p> <p>20 you traveled and did shutdowns for Miller</p> <p>21 Mechanical?</p> <p>22 A. Yeah.</p> <p>23 Q. Tell me what that involved.</p>	<p>1 (Whereupon, Defendant's</p> <p>2 Exhibit No. 1 was marked</p> <p>3 for identification.)</p> <p>4 (Off-the-Record discussion</p> <p>5 was held.)</p> <p>6 Q. Mr. Dees, what we've marked as</p> <p>7 Exhibit 1 to your deposition, you agree</p> <p>8 that's your resume?</p> <p>9 A. Starting at the top?</p> <p>10 Q. Sure.</p> <p>11 A. All right. Projective,</p> <p>12 employment with Hyundai Corporations --</p> <p>13 Q. No. No. No. You don't have</p> <p>14 to read it. Just look at it and tell me if</p> <p>15 that is what it looks like.</p> <p>16 A. Yes, sir.</p> <p>17 Q. That was your resume?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And to your knowledge, was</p> <p>20 that the one that you submitted to Hyundai</p> <p>21 when you applied?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. That's all I've got to</p>
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<p>1 A. We worked in the pulp</p> <p>2 divisions. We did everything from changing</p> <p>3 out motors, pumps, welding in the digesters,</p> <p>4 changing screens out. Anything to do in the</p> <p>5 pulp division, we did it.</p> <p>6 Q. Okay. And prior to Miller</p> <p>7 Mechanical, do you remember where you</p> <p>8 worked?</p> <p>9 A. I think it was just military</p> <p>10 there.</p> <p>11 Q. Just in the military?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Mr. Dees, let me give</p> <p>14 you what we have been provided by your</p> <p>15 attorneys. I'm assuming this is your</p> <p>16 resume?</p> <p>17 A. Yes, sir.</p> <p>18 Q. If you see down at the bottom</p> <p>19 it says Dees V. HMMA 00013.</p> <p>20 MR. KILBORN: Do you want to</p> <p>21 go ahead and mark it.</p> <p>22 MR. JOHNSON: Yeah, let's go</p> <p>23 ahead and mark it.</p>	<p>1 ask on that one.</p> <p>2 All right. Mr. Dees, let's</p> <p>3 talk a little bit about your background in</p> <p>4 the military. I think you said your</p> <p>5 employment prior to Miller Mechanical was</p> <p>6 basically in the military. So let's take</p> <p>7 it, I guess, from the bottom. You got out</p> <p>8 of high school and went in the military?</p> <p>9 A. No, sir. I went to basic</p> <p>10 training before I ever graduated. Army</p> <p>11 Basic Training, Fort McClellan, Alabama.</p> <p>12 Q. Okay. And when did you do</p> <p>13 basic?</p> <p>14 A. Summer of '82. Between my</p> <p>15 junior and senior year of high school.</p> <p>16 Q. Okay. And is Fort McClellan,</p> <p>17 is that an Army base?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And so then you did basic</p> <p>20 training in the summer and then went back</p> <p>21 and finished high school?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. Then when you got out</p>

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<p style="text-align: right;">Page 41</p> <p>1 of high school, did you go back into the</p> <p>2 Army?</p> <p>3 A. No, sir. I went to basic</p> <p>4 training for the Army National Guard.</p> <p>5 Q. That's what you did in the</p> <p>6 summer of '82?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Well, talk me through</p> <p>9 your military career, starting the summer of</p> <p>10 '82.</p> <p>11 A. Summer of '82, basic training,</p> <p>12 Fort McClellan, Alabama.</p> <p>13 Q. Okay.</p> <p>14 A. Summer of '83, Lackland Air</p> <p>15 Force Base. Left the guard, went to the Air</p> <p>16 Force. Army wouldn't let me be an MP and</p> <p>17 that's what I wanted to do, that or</p> <p>18 infantry, and they wouldn't let me go either</p> <p>19 one so I went to the Air Force. Went to the</p> <p>20 Air Force as an MP school.</p> <p>21 Q. Okay. When did you do that?</p> <p>22 A. '83.</p> <p>23 Q. All right. Did you have to do</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Okay.</p> <p>2 A. M-60 machine gun nonspecialist</p> <p>3 school, then M-60 machine gun specialist,</p> <p>4 that was another four weeks.</p> <p>5 Q. The machine gun nonspecialist</p> <p>6 school?</p> <p>7 A. Was two weeks. And the</p> <p>8 specialist school was two weeks. Four weeks</p> <p>9 to be a machine gunner.</p> <p>10 Q. Where was this school?</p> <p>11 A. Camp Bullis.</p> <p>12 Q. And the specialist school was</p> <p>13 also at Bullis?</p> <p>14 A. Camp Bullis.</p> <p>15 Q. And that took four weeks?</p> <p>16 A. Four weeks for the total of</p> <p>17 both of them, two weeks apiece.</p> <p>18 Q. Then after you completed the</p> <p>19 machine gun specialist school, what did you</p> <p>20 do?</p> <p>21 A. Went to Lackland Air Force</p> <p>22 Base, Florida.</p> <p>23 Q. What did you do there?</p>
<p style="text-align: right;">Page 42</p> <p>1 basic training for the Air Force too?</p> <p>2 A. No, sir. I'd have probably</p> <p>3 got kicked out, probably.</p> <p>4 Q. Why is that?</p> <p>5 A. I can't fold clothes in</p> <p>6 sixteen squares.</p> <p>7 Q. Okay. So you did the MP</p> <p>8 school in '83?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. How long did that take?</p> <p>11 A. Eight weeks, I believe.</p> <p>12 Q. What did you do after that</p> <p>13 eight weeks?</p> <p>14 A. Ground combat skills training.</p> <p>15 Q. Where?</p> <p>16 A. Camp Bullis, Texas.</p> <p>17 Q. How do you spell that?</p> <p>18 A. C-A-M-P B-U-L-L-I-S.</p> <p>19 Q. How long did ground combat</p> <p>20 skills training take?</p> <p>21 A. I don't know. Around eight</p> <p>22 weeks, I think. Six, eight weeks, I don't</p> <p>23 know.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Went to school a lot, stayed</p> <p>2 in the woods a lot; got certified on a</p> <p>3 radar, Intoxilizer, Breathalyzer; a lot of</p> <p>4 exercises, deployment exercises in the</p> <p>5 woods; and I worked a lot of gates.</p> <p>6 Q. All right. When you say you</p> <p>7 were in school, I assume that was learning</p> <p>8 stuff like how to operate radar, how to</p> <p>9 operate Breathalyzer?</p> <p>10 A. Competitions. I shot</p> <p>11 competitions for the Air Force. Combat</p> <p>12 competitions, peace keeper challenge.</p> <p>13 Q. Okay. And when you say you</p> <p>14 were in the woods a lot, I assume that was</p> <p>15 all training?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. What kind of training</p> <p>18 were you doing?</p> <p>19 A. Ground combat skills.</p> <p>20 Q. Okay.</p> <p>21 A. I had some -- I had prior Army</p> <p>22 training, and the Air Force don't really</p> <p>23 have a lot of combat training so they</p>

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<p>1 utilize on the other branches, Army and 2 Marine Corps combat courses. So that's why 3 I got stuck back in the woods. 4 Q. When you say you worked a lot 5 of gates, does that mean doing security at 6 gates? 7 A. Yes, sir. 8 Q. I assume that's because you 9 were an MP? 10 A. Yes, sir. 11 Q. And technically were -- At 12 what point did you become an MP, when you 13 finished MP school in '83? 14 A. Yes, sir. 15 Q. All this other stuff, the 16 ground combat skills training, machine gun 17 training, that was all to sort of further 18 your education as an MP? 19 A. Not really. 20 Q. Okay. 21 A. Air Force is responsible for 22 their own perimeter security, in the States 23 and overseas. And being as I had prior Army</p>	<p>1 I did a lot of SWAT recalls, worked town 2 patrol some, team spirit, got stuck in the 3 woods a lot, again. And that was it. 4 Q. What are SWAT recalls? 5 A. SWAT team. I was on the 6 military SWAT team. They call it a special 7 reaction team, SRT. That's their version of 8 the SWAT team. 9 Q. And what did you do? 10 A. I was an entry man, first one 11 in the door. 12 Q. That would be like if there 13 was a hostage or crisis -- 14 A. Hostage situation, bank 15 robbery, anything you call a civilian SWAT 16 team for, that's what we was for. 17 Q. Okay. And town patrol, is 18 that what it sounds like? 19 A. Yes, sir. 20 Q. I assume you just made sure 21 that other members of the military weren't 22 causing trouble, things like that? 23 A. You worked strictly at night</p>
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<p>1 service, that's where I got stuck. 2 Q. Why is that? 3 A. Because they thought I was a 4 grunt, so I went back to being a grunt. 5 Q. Okay. And how long were you 6 at Lackland? 7 A. Approximately a year I 8 believe. 9 Q. What year was that? Was that 10 in '83 or '84 or both? 11 A. '84 to '85, I believe. 12 February of '84 to maybe February of '85, 13 January of '85. I don't know. 14 Q. After Lackland, where did you 15 go? 16 A. Korea. 17 Q. How long were you in Korea? 18 A. Twelve months. 19 Q. 1985 through '86? 20 A. February of '85 to February of 21 '86. 22 Q. What did you do in Korea? 23 A. I was on the SWAT team there.</p>	<p>1 patrolling local towns, walking through the 2 bars, off-limits areas, make sure the GIs 3 wasn't in the off-limits areas, things of 4 that nature. 5 Q. And you say you got stuck in 6 the woods some more, what were you doing, 7 training? 8 A. Team spirit exercises and 9 training exercises. 10 Q. What are team spirit 11 exercises? 12 A. There was a big military 13 buildup in Korea around every February or 14 March to show military strength without 15 all-out war. 16 Q. Okay. And that was the team 17 spirit exercise? 18 A. Yes, sir. 19 Q. Okay. What else did you do 20 while you were in Korea? 21 A. Got married. 22 Q. I guess that's a big deal? 23 A. Yes, sir.</p>

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<p>1 Q. When did you get married?</p> <p>2 A. 28 June '85.</p> <p>3 Q. My wife would be happy if I</p> <p>4 could reel off those dates as quick as you</p> <p>5 do.</p> <p>6 Did y'all get married actually</p> <p>7 in Korea?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Anything else that you did</p> <p>10 while you were in Korea?</p> <p>11 A. No. I don't know. That was</p> <p>12 years ago. Maybe, maybe not. I don't know.</p> <p>13 I don't remember.</p> <p>14 Q. All right. You came back to</p> <p>15 the states in '86?</p> <p>16 A. Yes, sir. Fort Lewis,</p> <p>17 Washington.</p> <p>18 Q. Fort Lewis?</p> <p>19 A. Yes. Tacoma, Washington.</p> <p>20 Q. That's an Air Force base?</p> <p>21 A. That's an Army post.</p> <p>22 Q. How did you get put on an Army</p> <p>23 post?</p>	<p>1 Q. How long were you at Bitburg?</p> <p>2 A. Three, three and a half years.</p> <p>3 I don't know.</p> <p>4 Q. I assume your wife was</p> <p>5 traveling with you at Fort Lewis and</p> <p>6 Bitburg?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And had y'all had any kids by</p> <p>9 the time --</p> <p>10 A. My oldest daughter was born on</p> <p>11 Fort Lewis, Madigan Army Medical Center.</p> <p>12 Q. How do you spell Madigan?</p> <p>13 A. M-A-D-I-G-A-N. And my</p> <p>14 youngest daughter was born in Germany.</p> <p>15 Q. Okay. And when did you leave</p> <p>16 Bitburg?</p> <p>17 A. August '92. August, September</p> <p>18 '92, I'm not sure.</p> <p>19 Q. Now, around that time was</p> <p>20 during, I guess, the first Gulf War?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Were you deployed over in the</p> <p>23 Middle East during that period?</p>
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<p>1 A. Being an MP.</p> <p>2 Q. Okay. Did you serve as an MP</p> <p>3 at Fort Lewis?</p> <p>4 A. Yes, sir.</p> <p>5 Q. How long?</p> <p>6 A. Was on a SWAT team three</p> <p>7 years. Was on their SWAT team, completed</p> <p>8 Washington State SWAT School, their state</p> <p>9 certified school.</p> <p>10 Q. Those three years were 1986</p> <p>11 through when?</p> <p>12 A. '89.</p> <p>13 Q. '89?</p> <p>14 A. March of '86 through May or</p> <p>15 June of '89.</p> <p>16 Q. Okay.</p> <p>17 A. Germany.</p> <p>18 Q. You went to Germany after Fort</p> <p>19 Lewis?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Where in Germany?</p> <p>22 A. Bitburg Air Base,</p> <p>23 B-I-T-B-U-R-G.</p>	<p>1 A. Yes, sir. Desert Storm.</p> <p>2 Desert Shield and Desert Storm. I was there</p> <p>3 for both phases.</p> <p>4 Q. What were you doing during</p> <p>5 Desert Storm?</p> <p>6 A. Combat patrols.</p> <p>7 Q. What did that involve?</p> <p>8 A. Security patrols, recons,</p> <p>9 raids, ambushes, just basic combat patrol.</p> <p>10 Q. Where were you?</p> <p>11 A. Turkey, northern Iraqi border.</p> <p>12 We traveled from -- what's the name of that</p> <p>13 Air Force base? We traveled from some Air</p> <p>14 Force base over the Turkish border, did</p> <p>15 patrols and back. I don't remember the name</p> <p>16 of the base.</p> <p>17 Q. Okay. What about -- Were you</p> <p>18 anywhere else during Desert Storm?</p> <p>19 A. No, sir.</p> <p>20 Q. Okay. What about during</p> <p>21 Desert Shield, what were you doing?</p> <p>22 A. Same thing. It all rolled one</p> <p>23 into the other.</p>

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1 Q. Same place?

2 A. Only thing that changed for us

3 was the name.

4 Q. Okay. How long were you over

5 in the Middle East?

6 A. Little over three months.

7 Three months, I don't know. It wasn't long.

8 Air Force deploys three months. They're not

9 like the Army.

10 Q. Okay. And then I assume you

11 came back to Bitburg?

12 A. Yes, sir.

13 Q. Okay. And then after Bitburg,

14 where did you go?

15 A. Got out.

16 Q. Got out of the Air Force?

17 A. Yes, sir.

18 Q. All right.

19 A. Stayed out for a while and

20 joined the National Guard.

21 Q. Do you remember when you --

22 when you got out of the Air Force?

23 A. 30 November '92. Nine years,

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1 seven months, six days.

2 Q. Okay. Now, did you get any

3 sort of retirement from the military?

4 A. No, sir. I didn't -- I only

5 did -- I didn't do twenty years.

6 Q. Okay.

7 A. That's why I joined the

8 National Guard, finish it up and get my

9 retirement.

10 Q. Okay. When did you join the

11 National Guard?

12 A. I don't know. '93 or '94, I

13 don't know.

14 Q. When you -- When you left

15 Bitburg and got out of the Air Force, did

16 you come back to Alabama?

17 A. Yes, sir.

18 Q. And is that when you started

19 working with Miller Mechanical?

20 A. Yes, sir. After -- Well, I

21 signed up, took some welding classes first,

22 and then went to work for Miller Mechanical.

23 Q. Where did you take your

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1 welding classes?

2 A. Wallace.

3 Q. Wallace. And you say it was a

4 couple of months before you joined the

5 National Guard?

6 A. I don't know. May have been a

7 year. I don't know.

8 Q. Okay.

9 A. I don't know.

10 Q. And you joined the Alabama

11 Army National Guard?

12 A. Yes, sir. 2nd of the 117th

13 Field Artillery Battery.

14 Q. And are you in a different

15 unit now?

16 A. Yes, sir.

17 Q. Okay.

18 A. March 14th of '03 I was

19 involuntary transferred and extended to the

20 1165th MP Company. Deployed March 15th,

21 sent to Iraq for seems like forever; kept

22 getting extended, kept getting extended, I

23 had three extensions; then came back. I

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1 stayed with that company.

2 Q. Okay. How long were you in

3 Iraq during that time?

4 A. Seventeen, eighteen months. I

5 don't know.

6 Q. When did you return? I assume

7 it was in 2004?

8 A. Oh, it was in 2004. Late

9 2004. I think it was around August.

10 Q. Okay. And what did the -- You

11 said you were in the 117th Field Artillery

12 Battery, what was their -- what were they

13 there for? What did they do?

14 A. It was field artillery unit.

15 I was 13 Echo. It's called fire directional

16 specialist.

17 Q. Which means what?

18 A. Which means I -- The forward

19 observer sends me coordinates of where he

20 wants the rounds to go from the guns.

21 Q. Okay.

22 A. I take the wind velocity, the

23 -- The forward observer is looking at,

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<p style="text-align: right;">Page 57</p> <p>1 the view, from where the guns would be 2 looking at it; I plot everything on a map, 3 and I send the message to the guns, fire 4 mission, get ready to fire, I tell them what 5 to fire, how to fire it, when to fire it, at 6 what elevation, and what angle. 7 Q. What kind of guns are you 8 talking about? 9 A. 105 Howitzers. 10 Q. Okay. And was that -- Were 11 you pretty narrowly focused with the 117th? 12 A. Yes, sir. 13 Q. Okay. 14 A. What do you mean was I -- 15 Q. I mean, was that what you did? 16 Did you do anything else? 17 A. No, sir. Well, they changed 18 to a chemical company and I didn't -- I 19 don't like chemicals. 20 Q. When did they change to a 21 chemical company, after you had gone to 22 Iraq? 23 A. No, sir. A few months before</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. I'm assuming you did that. 2 A. We conducted patrols to our 3 assigned sector of town, Baghdad at first. 4 My responsibility was the southeast side of 5 Baghdad. Pretty good sector. I had a 6 police station called Billot Police Station. 7 We was training Iraqi police, and helped 8 them set up their force protection, teach 9 them how to patrol, teach them how to 10 policeman. At the same time we had to 11 conduct dismounted and mounted patrols of 12 the area, IED sweeps, raids, ambushes. 13 Basically you've got an MP on one side of 14 the fence, infantry on other side of the 15 fence, you combine them and you throw them 16 in. 17 We got in all-out ambushes so 18 bad that I had drivers thrown out of the 19 vehicles, men dying. Went from there to a 20 town we called Little Fallujah, the name of 21 it was Latifiyah, thirty-five miles south of 22 Baghdad; we took it over from the Marine 23 Corps. And it got its name Little Fallujah</p>
<p style="text-align: right;">Page 58</p> <p>1 I left. I don't remember. 2 Q. Okay. And when you say you 3 were involuntary transferred in March of 4 2003, how did that happen? 5 A. They called me up, told me to 6 pack my bags, I was leaving the next day and 7 go, and I did. 8 I'm a soldier, I go where I'm 9 told to go, and fight where I'm told to 10 fight. 11 DET 1, 1165th, Detachment 1. 12 Q. Okay. What is the 1165th? 13 A. Combat MP company. 14 Q. Now, was that more consistent 15 with what you had done over in Korea and 16 with your prior training? 17 A. Yes, sir. That's the reason I 18 got pulled. The state went through the 19 records, they didn't have enough people to 20 deploy, so I got pulled and sent with them. 21 Q. Okay. Tell me what you did 22 when you got to Iraq. 23 A. Besides trying to stay alive?</p>	<p style="text-align: right;">Page 60</p> <p>1 for a reason. If you was going down there, 2 you were going to make contact. 3 And we stayed down there every 4 day. We didn't have -- An army in a combat 5 zone, there is no such thing as a day off. 6 You work, you patrol. We patrolled every 7 day. Got -- Ran across I don't even know 8 how many IEDs, ambushes, going in kicking in 9 doors, taking the Iraqis out, taking them to 10 jail. 11 Train the Iraqi police so you 12 could fight them that night; train the Iraqi 13 army so you could fight them that night. 14 Left Latifiyah, went to First 15 Armored Division. I was on Colonel Baker's 16 personal security detail. 17 Q. Who is Colonel Baker? 18 A. Second Combat Brigade Team, 19 First Armored Division, commander. 20 Q. You were on his personal 21 security team? 22 A. Yes, sir. 23 Q. What did that involve?</p>

15 (Pages 57 to 60)

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1 A. Everywhere he wanted to go, I
2 had to make sure he made it there safely. I
3 mean every day he -- He was a jam-up
4 commander: He took care of his solders and
5 he knew his solders.
6 He traveled all over Iraq. He
7 had soldiers -- First Armored Division is a
8 big division, and he had a whole brigade
9 combat team, that's approximately
10 twenty-plus thousand soldiers. We'd go
11 anywhere up to a hundred miles from Baghdad.
12 Q. Okay.
13 A. His safety and welfare was my
14 responsibility. I'd make sure he stayed --
15 he was kept safe no matter where he went or
16 what he did.
17 Q. And was that the last thing
18 you did when you were in Iraq?
19 A. Yes, sir.
20 Q. Okay. Since you -- Well, when
21 did you get back home from Iraq that second
22 time?
23 A. Like I say, I think it was

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1 around August of '04. I'm not sure.
2 Q. Okay. And beginning in --
3 Well, after August of '05, were you still a
4 member of the National Guard?
5 A. Yes, sir. I still am.
6 Q. Same company and everything?
7 A. Yes, sir.
8 Q. Okay. What is your current
9 rank?
10 A. Staff sergeant, E-6. Until a
11 few months from now, and I'll be promoted to
12 an E-7.
13 Q. What's the difference between
14 E-6 and E-7?
15 A. Pay.
16 Q. Pay?
17 A. Title, job title. I'll be
18 taking over -- Right now I'm a fill-in
19 platoon sergeant. Any time we deploy, I'm
20 in charge of a platoon. But when I get that
21 promotion, it will be officially on paper,
22 I'll take official command of that platoon.
23 Q. Okay. Which platoon?

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1 A. Third platoon.
2 Q. What's the difference in pay
3 between E-6 and E-7?
4 A. I don't know yet.
5 Q. Okay. And when you -- When
6 you began back in 1983 at Lackland -- or at
7 Fort McClellan, what was your rank then?
8 A. E-1.
9 Q. E-1?
10 A. Bottom of the totem pole.
11 Q. And did you move from E-1 to
12 E-2?
13 A. Yeah.
14 Q. When was that?
15 A. I don't know.
16 Q. Do you remember when your
17 ranks changed, thinking back?
18 A. No. Back then it didn't
19 matter. Until you hit E-5 in the military,
20 it don't matter.
21 Q. All right. When did you hit
22 E-5?
23 A. Right before we went to Desert

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1 Shield.
2 Q. And to progress from E-5 to
3 E-6, does it take training, recommendations
4 from superiors?
5 A. Takes training, takes certain
6 schools you have to have, takes
7 recommendations. There's a lot of
8 requirements you have to have. Your packet
9 goes up before the State board. I picked my
10 E-6 up in Iraq.
11 Q. When was that, the second time
12 or first time?
13 A. Second time. In Air Force you
14 don't get E-6 prior to ten years. It just
15 don't happen. Like I say, you got all these
16 E-9s on the State board looking at your
17 packet, your records, your recommendations,
18 whether you have the requirements. They
19 pick your record apart with a fine-toothed
20 comb.
21 Q. What have you done to go from
22 E-6 to E-7?
23 A. Same thing. This last school,

16 (Pages 61 to 64)

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<p style="text-align: right;">Page 65</p> <p>1 month-long school I've been in, was the last 2 requirement I needed to make E-7. And 3 really it's up to the State and my unit. My 4 unit, if they don't think you're ready, 5 you're not going to get it. 6 Q. What was the last school you 7 attended? 8 A. That BNCOC, Basic 9 Noncommissioned Officers Course. 10 Q. Okay. Let's talk about that. 11 A. All right. 12 Q. Tell me more about that. What 13 is it? 14 A. Well, you've got to know the 15 military legal system, as far as Uniform 16 Code of Military Justice; you've got to have 17 managerial skills; you've got to have -- I 18 mean, you spend two weeks in the field, so 19 your combat skills is tested big time. 20 Q. During the school? 21 A. Yes, sir. 22 Q. And is it a month-long school? 23 A. Well, I did two phases.</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. Mr. Dees, going back on the 2 Record here. Just a couple other questions 3 about your military background. 4 You had mentioned that you 5 finished Phases II and III of BNCOC school. 6 How long did that take to finish II and III? 7 A. Four weeks. That's mostly 8 field training. 9 Q. Okay. 10 A. All my -- I spent -- Like I 11 said, when I was seventeen, I went through 12 basic training. I come from a military 13 family, I've been a -- military is all I've 14 ever known. I don't have one blemish. I've 15 got letters of certificates, letters of 16 appreciation from full bird colonels; I've 17 got achievement medals, accommodation 18 medals; put in for a bronze star in Iraq. 19 You can ask any of my soldiers, Sergeant 20 Barnes, my soldiers that work for me, my 21 seniors, any of them, they'll attest to my 22 military background and my career. 23 Q. Who -- And you mentioned</p>
<p style="text-align: right;">Page 66</p> <p>1 There's three phases for my MOS, and each 2 one is two weeks long. And I did the second 3 and third phrases back to back. 4 Q. All right. What was the first 5 phase? 6 A. First phase is all basic 7 military knowledge, as far as your admin 8 side. 9 Q. When did you do that? 10 A. Last year. Last September, I 11 believe. 12 Q. All right. When did you do 13 Phase II? 14 A. I don't know. A month ago. 15 Q. Okay. And you still have to 16 do Phase III? 17 A. No, sir. I did Phase II and 18 III back to back. 19 Q. Okay. 20 THE WITNESS: I need to take a 21 break if you don't mind. 22 MR. JOHNSON: That's fine. 23 (Recess taken.)</p>	<p style="text-align: right;">Page 68</p> <p>1 Sergeant Barnes, is he one of your soldiers? 2 A. He's my operation NCO, he 3 works for me. Sergeant Richberg, Sergeant 4 Martin. 5 Q. Give me those names. You had 6 Sergeant Barnes? 7 A. Sergeant Franklin D. Barnes. 8 Q. He's your NCO? 9 A. He's my operations NCO. He 10 works for me. He's the one that sent the 11 letter to Hyundai. 12 Q. Did you tell him to send it? 13 A. I went to the unit and 14 complained because I was being ordered to 15 give military orders for a drill weekend. 16 And Greg Prater knows -- He was in the 17 Guard, he knows you do not get military 18 orders for a drill weekend. I gave them a 19 schedule. Every time I hire on with an 20 employer, I tell them up front, I'm in the 21 National Guard, is this going to cause a 22 problem. 23 Q. Did you tell Hyundai that up</p>

17 (Pages 65 to 68)

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<p style="text-align: right;">Page 69</p> <p>1 front?</p> <p>2 A. I told Hyundai that up front.</p> <p>3 I told International Paper, I told BE&K, I</p> <p>4 told IP at Thorsby. I've always been up</p> <p>5 front. You can ask my soldiers, you can ask</p> <p>6 the people I -- Well, y'all's lawyer</p> <p>7 interviewed my coworkers, they told him the</p> <p>8 same thing. Leon Dees is honest. If he</p> <p>9 screws up he will tell you. I may not be</p> <p>10 perfect. I make mistakes just like the next</p> <p>11 guy. But if I make one, I'll tell you. You</p> <p>12 can go back to my employer at Thorsby, my</p> <p>13 maintenance manager Danny Wyatt, I crashed</p> <p>14 an eighty-five thousand dollar chipper. I</p> <p>15 didn't know it. I went home that day, I</p> <p>16 come back in, it was strowed all over</p> <p>17 everywhere. They didn't have a clue what</p> <p>18 happened to it. I knew what had happened.</p> <p>19 I went up and I told them. I thought I was</p> <p>20 fixing to get fired. But I told them</p> <p>21 exactly what happened.</p> <p>22 If I mess up, you can ask my</p> <p>23 soldiers or anybody, if I mess up, I'm the</p>	<p style="text-align: right;">Page 71</p> <p>1 is at Hyundai?</p> <p>2 A. He's a maintenance assistant</p> <p>3 -- maintenance manager or assistant</p> <p>4 maintenance of the -- I'm not sure which</p> <p>5 department. He's on the electrical side.</p> <p>6 I'm not sure.</p> <p>7 Q. Do you know if he was in the</p> <p>8 military?</p> <p>9 A. Danny Blue?</p> <p>10 Q. Uh-huh.</p> <p>11 A. I don't think so. I'm not</p> <p>12 sure, but I don't think so.</p> <p>13 Q. That's fine. I don't know him</p> <p>14 at all.</p> <p>15 But you told him specifically</p> <p>16 you were in the Guard?</p> <p>17 A. Yes, sir, I did.</p> <p>18 Q. And did he indicate that would</p> <p>19 be a problem?</p> <p>20 A. No, sir.</p> <p>21 Q. Did he indicate that anybody</p> <p>22 at Hyundai would have a problem with that?</p> <p>23 A. No, sir.</p>
<p style="text-align: right;">Page 70</p> <p>1 first one to admit it.</p> <p>2 Q. You mentioned something that</p> <p>3 was interesting to me. You said when you</p> <p>4 got hired on by Hyundai, as with other</p> <p>5 employers, you told them you were a member</p> <p>6 of the National Guard.</p> <p>7 A. I gave Greg Prater my yearly</p> <p>8 schedule, year in advance we get our</p> <p>9 schedules, every October.</p> <p>10 Q. Let me make sure you</p> <p>11 understand my question. I assume what</p> <p>12 you're talking about with Greg Prater, he</p> <p>13 wasn't the one that hired you, was he?</p> <p>14 A. Danny Blue interviewed me.</p> <p>15 And I told Danny Blue I was in the Guard. I</p> <p>16 told him I was in the National Guard, was an</p> <p>17 active member in the Guard and have a</p> <p>18 commitment to the Guard.</p> <p>19 Q. And was Danny Blue -- Who was</p> <p>20 he? Was he somebody that interviewed you</p> <p>21 during the hiring process?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And do you know what his role</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Did he say anything about</p> <p>2 whether Hyundai has policies that support</p> <p>3 members of the Guard?</p> <p>4 A. Their handbook states that.</p> <p>5 You've got a copy of their handbook, and it</p> <p>6 states their military policy.</p> <p>7 Q. And you've got a copy of their</p> <p>8 handbook?</p> <p>9 A. Yes, sir.</p> <p>10 Q. When you got a copy of the</p> <p>11 handbook, did they get you to sign an</p> <p>12 acknowledgement saying you received it?</p> <p>13 A. I don't remember. I don't</p> <p>14 know. I may have, I may not. I don't know.</p> <p>15 (Whereupon, Defendant's</p> <p>16 Exhibit No. 2 was marked</p> <p>17 for identification.)</p> <p>18 Q. Mr. Dees, this is an exhibit</p> <p>19 we've marked as Exhibit Number 2. Do you</p> <p>20 recognize that document?</p> <p>21 A. Let me read it and make sure.</p> <p>22 This is it.</p> <p>23 Q. And I know that -- It appears</p>

18 (Pages 69 to 72)

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<p style="text-align: right;">Page 73</p> <p>1 the date on that is January 10th of '06; 2 correct? 3 A. Yes, sir. 10 January '06. 4 Q. And is that your signature 5 down there at the bottom? 6 A. Yes, sir. 7 Q. And my assumption is, since 8 it's from January 10th, of '06, this wasn't 9 signed at the time you initially hired on; 10 correct? You hired on before '06; right? 11 A. Yes, sir. 12 Q. Do you know -- Do you recall 13 if you received a handbook at the time you 14 were hired and then they issued another 15 handbook later? 16 A. No, sir. That was it. But 17 why was the '06 -- What was the original 18 number? Looks like 10 January '07 and then 19 the '06 is highlighted. 20 Q. Okay. Do you know if that's 21 your handwriting or do you remember doing 22 that? 23 A. I know -- I know they had a</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Your clock number? 2 A. Old clock number. 3 Q. Okay. And would it be fair to 4 state that possibly prior to that, you had 5 received a copy of the handbook? 6 A. I received a copy of the 7 handbook when I hired on. 8 Q. Okay. 9 A. But like I said, this here, if 10 you look in the back of that handbook, or 11 the front, one, it's got this -- a statement 12 similar to this, or something in it -- 13 Q. Okay. 14 A. -- and you're supposed to sign 15 it. And none of us signed it. 16 Q. Okay. 17 A. That's why they came out with 18 these. 19 Q. Do you remember reading the 20 handbook when you first got hired on? 21 A. All the way through? 22 Q. Sure. 23 A. No. Not all the way through.</p>
<p style="text-align: right;">Page 74</p> <p>1 big push for everybody to sign that there, 2 because nobody had actually signed the -- 3 They had a form in the handbook to sign, but 4 nobody had actually signed it. 5 Q. Do you remember when they sent 6 this -- sent the acknowledgement around to 7 get people to sign it? 8 A. To be honest, the exact date 9 or time, no. 10 Q. Okay. 11 A. But, mine says 10 January '07, 12 then the 7 is crossed out and the 6 is 13 highlighted. 14 Q. Okay. And you don't recall 15 whether you did that or not? 16 A. No, sir. Well, normally when 17 I do something like that, from my military 18 background, I initial it. 19 Q. Okay. But I assume that's 20 your signature? 21 A. That's my signature. 22 Q. Okay. 23 A. And that's my clock number.</p>	<p style="text-align: right;">Page 76</p> <p>1 I mean I read bits and pieces and parts here 2 and there, yes, sir. 3 Q. All right. Do you remember 4 reading the part about military leaves or 5 anything related to military training? 6 A. Yes, sir, it is. 7 Q. Do you remember what it says? 8 A. It says that -- that you don't 9 have to use your vacation time in lieu of 10 your military training. Because that was a 11 big issue. 12 Q. Okay. Was his name Danny 13 Blue? 14 A. Yes, sir. 15 Q. Okay. Did he say anything 16 else about Hyundai supporting members of the 17 military services or Guard with leaves? 18 A. He said my being in the Guard 19 wouldn't have anything to do with me getting 20 hired. 21 Q. Okay. And you did get hired? 22 A. Yes, sir. 23 Q. Okay.</p>

19 (Pages 73 to 76)

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<p style="text-align: right;">Page 77</p> <p>1 A. But like I said, my military 2 career, they can -- they can look at 3 anything that they want to or talk to 4 anybody in my unit if they want to, I'd be 5 glad to let them.</p> <p>6 Q. My assumption is, your 7 attorneys have given us a number of 8 commendations and awards and things that 9 relate to your military service.</p> <p>10 A. Yes, sir. I've got 11 achievement metals out the ying-yang, 12 accommodation metals.</p> <p>13 Q. I'm assuming that you've 14 provided to your attorneys all of those that 15 are in your possession?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Based on what you've 18 said and based on my review of your 19 accommodations and awards, my assumption is 20 you were never disciplined for anything 21 while you were in the military?</p> <p>22 A. No, sir. I had an outstanding 23 military -- I even took honor grad from a</p>	<p style="text-align: right;">Page 79</p> <p>1 feel we have the need to know. There's 2 three companies from my battalion going, 3 217th, 214th, 1165th.</p> <p>4 Q. And in addition to not being 5 disciplined while you were in the military, 6 I assume you were never court martialed for 7 anything?</p> <p>8 A. No, sir. No Article 15, no 9 letters of counseling, no letters of 10 reprimand. I come -- I know what my duty 11 is, and, like I said, I fulfill that duty. 12 I take care of my soldiers and my soldiers 13 take care of me. That's all I've ever 14 known, that's what I like, and I'm good at 15 it.</p> <p>16 Q. Now, earlier you used a term I 17 want to clear up, you said MOS, that stands 18 for Military Occupational Skill; correct?</p> <p>19 A. Yes, sir. I don't remember 20 using it, but that's what it stands for.</p> <p>21 Q. I think you used it. 22 Your military occupational 23 skill, would that be military police?</p>
<p style="text-align: right;">Page 78</p> <p>1 Marine Corps school.</p> <p>2 Q. Were you ever disciplined for 3 anything while you were with the National 4 Guard?</p> <p>5 A. No, sir. I know my job and 6 I'm very, very proud of the job I do, and 7 proud of the uniform I wear.</p> <p>8 Q. Okay.</p> <p>9 A. I've served my country two 10 different tours, combat tours, and I'm going 11 back again next year, and I'm going back 12 willingly.</p> <p>13 Q. Going back where?</p> <p>14 A. Iraq.</p> <p>15 Q. Do you know what you're going 16 to do when you go?</p> <p>17 A. Yes, sir, I do.</p> <p>18 Q. What are you going to do?</p> <p>19 A. Convoy security. Most 20 dangerous job you can have over there right 21 now.</p> <p>22 Q. Okay. When are you leaving?</p> <p>23 A. We won't know that until they</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Yes, sir. That's one of them.</p> <p>2 Q. I don't know the answer to 3 this: Can people have more than one MOS?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And do you have more than one?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Tell me what yours are?</p> <p>8 A. 13 Echo, field artillery, fire 9 direction control, FDC, fire direction 10 specialist. And 74 Delta. I ain't got a 11 clue what that is. It's in my records, it's 12 either chemical or signal one, I don't know.</p> <p>13 Q. 13 Echo is that military 14 police?</p> <p>15 A. No, sir. That's artillery.</p> <p>16 Q. Okay. And is that all the 17 MOS's that you're aware of?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. Have you ever been 20 arrested for anything?</p> <p>21 A. No, sir.</p> <p>22 Q. Have you ever filed a worker's 23 compensation claim?</p>

20 (Pages 77 to 80)

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<p>1 A. No, sir.</p> <p>2 Q. Have you ever filed a Social</p> <p>3 Security claim?</p> <p>4 A. No, sir.</p> <p>5 Q. Are you receiving any sort of</p> <p>6 payments now for any sort of disability,</p> <p>7 illness, short-term disability, long-term</p> <p>8 disability, anything like that?</p> <p>9 A. When I came back from Iraq, I</p> <p>10 had to have my shoulder operated where I</p> <p>11 messed it up in Iraq. I got, I think it</p> <p>12 was, short-term disability through the IP, I</p> <p>13 believe. I'm not sure how it worked. They</p> <p>14 took care of everything.</p> <p>15 Q. All right. What kind of</p> <p>16 shoulder surgery did you have? Did you have</p> <p>17 a rotator cuff injury?</p> <p>18 A. Rotator cuff, lost the lining</p> <p>19 in my shoulders, muscles. Something to do</p> <p>20 with the bone, I don't know.</p> <p>21 Q. What did you have done, do you</p> <p>22 know?</p> <p>23 A. The muscles was completely</p>	<p>1 Q. Okay. Is your shoulder back</p> <p>2 where you can work fully at this point?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Are you having any ongoing</p> <p>5 problems that prevent you from working in</p> <p>6 any way, shape, or form?</p> <p>7 A. No, sir.</p> <p>8 Q. Now, prior to today, to get</p> <p>9 ready for this deposition, did you review</p> <p>10 any documents?</p> <p>11 A. Just what Hyundai sent me, I</p> <p>12 went over my military records.</p> <p>13 Q. Okay. Anything -- When you</p> <p>14 say just what Hyundai sent you, what was</p> <p>15 that?</p> <p>16 A. I don't remember. Benefits</p> <p>17 packages, hire-on package, junk like that.</p> <p>18 Q. Okay. Are you talking about</p> <p>19 stuff we sent to your lawyer?</p> <p>20 A. Yeah. Some statements from</p> <p>21 Will Ware, I think.</p> <p>22 Q. Okay.</p> <p>23 A. Mostly it was all benefits,</p>
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<p>1 torn off from the front or the back, one,</p> <p>2 half way on the other side. Like I say, I</p> <p>3 lost the lining in my shoulder. Something</p> <p>4 else, I don't remember what the doc said.</p> <p>5 He said it was screwed up.</p> <p>6 Q. Where did you have the surgery</p> <p>7 done?</p> <p>8 A. Birmingham.</p> <p>9 Q. Birmingham?</p> <p>10 A. Yes, sir. I ain't letting the</p> <p>11 Army cut on me no more. They've done it two</p> <p>12 or three times, and every time it ain't gone</p> <p>13 good.</p> <p>14 Q. Okay. What were the other two</p> <p>15 or three times for?</p> <p>16 A. When I was in Baghdad, they</p> <p>17 cut me open in a make-shift hospital in the</p> <p>18 middle of Baghdad to take my appendix out.</p> <p>19 And I woke up with industrial staples in my</p> <p>20 gut that I had to take out. They cut my</p> <p>21 wisdom teeth out up at Fort Lewis, and I</p> <p>22 still don't have the feeling in my jaw. So</p> <p>23 I wasn't going for a third.</p>	<p>1 and hire-on package, and stuff from my</p> <p>2 previous employers.</p> <p>3 Q. Okay. Have you reviewed</p> <p>4 anything else?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you -- And, again, I'm not</p> <p>7 -- I'm not going to ask you anything that</p> <p>8 you talked to your lawyers about or asked</p> <p>9 your lawyers or anything like that.</p> <p>10 But other than your lawyers,</p> <p>11 did you speak to anybody getting ready for</p> <p>12 the depo?</p> <p>13 A. No, sir.</p> <p>14 Q. Did you review the complaint</p> <p>15 that was filed?</p> <p>16 A. That my -- What do you mean?</p> <p>17 Which -- That my lawyers filed?</p> <p>18 Q. Yes, sir. To start the</p> <p>19 lawsuit, your lawyers filed a summons and</p> <p>20 complaint at the courthouse.</p> <p>21 A. Yes, sir.</p> <p>22 Q. Did you look at it getting</p> <p>23 ready for today?</p>

21 (Pages 81 to 84)

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<p>1 A. I looked at it awhile back. I</p> <p>2 don't remember. I've looked at it, yes,</p> <p>3 sir.</p> <p>4 Q. But did you look at it to get</p> <p>5 ready for today?</p> <p>6 A. I don't remember, to be</p> <p>7 honest.</p> <p>8 Q. Okay.</p> <p>9 A. I talked to Bob yesterday</p> <p>10 about some stuff, but I don't remember. To</p> <p>11 be honest, I don't remember.</p> <p>12 Q. Okay. And when you say you</p> <p>13 talked to Bob, are you referring to</p> <p>14 Mr. Hall, who is here?</p> <p>15 A. Hall, yes, sir.</p> <p>16 Q. Okay. And what did y'all talk</p> <p>17 about?</p> <p>18 A. The paperwork that he had</p> <p>19 drawn up, gone over, my records.</p> <p>20 Q. Did you review his expert</p> <p>21 report with him?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. Was there anything in</p>	<p>1 Basically, I lived there more than I did at</p> <p>2 home.</p> <p>3 Q. Okay. Which -- I mean, when</p> <p>4 was the last time you spoke to one of your</p> <p>5 coworkers?</p> <p>6 A. Bornberg called me yesterday</p> <p>7 evening I believe. Yesterday sometime.</p> <p>8 Q. Who was that?</p> <p>9 A. Mark Bornberg.</p> <p>10 Q. What did he talk about?</p> <p>11 A. Just letting me know he was</p> <p>12 going to Maplesville to cut a tree down for</p> <p>13 one of my friends.</p> <p>14 Q. Did y'all talk about the</p> <p>15 deposition or the lawsuit at all?</p> <p>16 A. No, sir. He asked how it was</p> <p>17 going, I said I don't know yet.</p> <p>18 Q. Have you talked to any of your</p> <p>19 former coworkers about the lawsuit or this</p> <p>20 deposition?</p> <p>21 A. They -- Some lawyers from</p> <p>22 South Carolina interviewed -- had them all</p> <p>23 at work, was going to interview them all one</p>
Page 86	Page 88
<p>1 his expert report that you disagreed with?</p> <p>2 A. No, sir. I mean, I ain't no</p> <p>3 accountant or no lawyer.</p> <p>4 Q. Okay.</p> <p>5 A. So did I understand</p> <p>6 everything? No, sir.</p> <p>7 Q. All right. Was there anything</p> <p>8 in his expert report that you asked him to</p> <p>9 change in any way, shape, or form?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Okay. Other than reviewing</p> <p>12 the report that he drafted, what else did</p> <p>13 you do?</p> <p>14 A. That was about it.</p> <p>15 Q. When was that?</p> <p>16 A. I looked at Mr. Hall's report</p> <p>17 yesterday.</p> <p>18 Q. Okay. Did you speak with</p> <p>19 anybody else that worked for Hyundai getting</p> <p>20 ready -- prior to today getting ready?</p> <p>21 A. No, sir. I mean, my</p> <p>22 coworkers, they called me. I mean, we're</p> <p>23 friends. We was tight, we was real close.</p>	<p>1 night. And he interviewed three of them and</p> <p>2 said he didn't want to talk to none of the</p> <p>3 rest of them is the only thing they told me.</p> <p>4 Q. Who said that?</p> <p>5 A. Drake Barefoot.</p> <p>6 Q. And he said what now?</p> <p>7 A. Said that a lawyer told him</p> <p>8 that they didn't have to talk to him, but</p> <p>9 he'd like to ask them some questions. And</p> <p>10 he started interviewing them, and says he</p> <p>11 interviewed the third one and come out and</p> <p>12 told the rest of them to leave, that he</p> <p>13 wasn't getting what he wanted.</p> <p>14 Q. Okay. Who are the three that</p> <p>15 you think were interviewed?</p> <p>16 A. I don't remember. Drake told</p> <p>17 me the names, but I don't remember who it</p> <p>18 was.</p> <p>19 Q. Okay. And that's Drake</p> <p>20 Barefoot?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. Did Drake tell you</p> <p>23 anything else about the interview?</p>

22 (Pages 85 to 88)

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<p>1 A. No, sir. I didn't ask him 2 nothing else. 3 Q. Okay. 4 A. I didn't ask him that, but -- 5 Q. Did you talk to anybody else 6 about an interview? 7 A. No, sir. 8 Q. Other than Drake, do you know 9 anybody that gave an interview? 10 A. Like I said, Drake came and 11 told me who all he talked to, but I don't 12 remember who it was. That's been a while -- 13 few months ago, I guess. 14 Q. Okay. 15 A. Like I said, we was good 16 friends. Most of the time we just call each 17 other to pick on each other. 18 Q. Okay. And other than that 19 discussion, after those interviews, have you 20 had any other talks with Drake about the 21 lawsuit or this deposition or anything like 22 that? 23 A. No. Like I said, they'll call</p>	<p>1 this -- her Korean culture, she just -- she 2 was nervous. 3 Q. Okay. 4 A. That was it. 5 Q. Okay. 6 A. She's scared of the Koreans. 7 Q. Okay. Why is that? 8 A. I mean, in Korea you don't 9 buck the system at all. Korean civilian 10 life is like military life, you don't -- you 11 don't go up against the system at all. If 12 they tell you to jump off a bridge, you jump 13 off a bridge and thank them half way down. 14 Q. Okay. Other than your wife, 15 did you speak to any other family members 16 getting ready for the deposition? 17 A. No, sir. I ain't had time. 18 I've been up at Fort McClellan for a month, 19 I came home Saturday. And she's always got 20 something for me to do around the house, so, 21 no. 22 Q. I understand that. 23 Either in getting ready for</p>
Page 90	Page 92
<p>1 and ask, and I -- Like I said, I ain't no 2 lawyer and I don't know, so I just -- that's 3 the same thing I tell them, I don't know. 4 Q. Okay. Have you talked to 5 anybody else at Hyundai, other than your 6 coworkers about this lawsuit? 7 A. No, sir. 8 Q. Or about this deposition? 9 A. No, sir. 10 Q. I assume you talked to your 11 wife before coming here today? 12 A. I live with her, yes, sir. 13 Q. Well, did you talk to her -- 14 Again, remember I told you earlier some of 15 my questions don't make sense. 16 That made sense, but it wasn't 17 the right question. Did you talk to her 18 about this lawsuit or about your deposition 19 in preparation for today? 20 A. I reckon, yes, sir. 21 Q. Okay. Do you remember what 22 y'all talked about? 23 A. No. I mean, she just said</p>	<p>1 the deposition or at any time during the 2 lawsuit, have you kept a journal or put 3 anything down in writing that might have 4 information relevant to the lawsuit? 5 A. Have I kept a journal? No, 6 sir. I kept notes when I was at Hyundai, 7 and they were taken. 8 Q. When you say you kept notes, 9 what were your notes like? 10 A. I spent several years in the 11 military, I kept meticulous notes: dates, 12 times, places, specific comments. 13 Q. What did you keep them on? 14 A. Just blank copy paper. 15 Q. Blank copy paper? 16 A. Yes, sir. 17 Q. What color copy paper, plain 18 white? 19 A. Plain white paper. 20 Q. Where did the blank copy paper 21 come from? 22 A. Probably out of the copy 23 machine there.</p>

23 (Pages 89 to 92)

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<p style="text-align: right;">Page 93</p> <p>1 Q. At work? 2 A. Yes, sir. I mean, I don't 3 know. They gave us tablets to keep notes 4 on, to write daily logs on. So I don't know 5 where I got it from. 6 Q. Did you ever keep anything on 7 a journal or a daily log? 8 A. We had to fill out daily 9 reports there at the plant, yes. 10 Q. Okay. And what did you do 11 with those reports? 12 A. I turned mine in every day, 13 except for one day when I forgot to turn one 14 in and got in trouble for it. 15 Q. Who did you turn it in to? 16 A. We'd turn them in. There was 17 a box in the office we had to turn them in 18 to. 19 Q. When you say the office, is 20 that like a maintenance office? 21 A. Yes, sir. Every section has 22 their own maintenance office. 23 Q. Okay. Did any of your</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. But other than you telling 2 them that you had notes, did they ever -- 3 A. Yeah. I'd pull them out of my 4 pocket, and they asked me, you got your 5 notes? Yeah. 6 Q. And were these notes related 7 to issues you were having with Greg Prater 8 or somebody else at the plant? 9 A. Issues I was having period 10 regarding my military service. 11 Q. Okay. Did you ever take your 12 notes home? 13 A. Yes, sir. I'd take them home 14 and bring them back -- they'd stay with me 15 or either I'd lock them up in my locker. 16 Q. And you kept them in your 17 pocket? 18 A. Yes, sir. 19 Q. Did you take any notes home 20 that are still at your home? 21 A. No, sir. When I left, my 22 jacket was locked up in my locker, and I 23 wasn't allowed to even go to my locker. I</p>
<p style="text-align: right;">Page 94</p> <p>1 coworkers ever see you writing on copy paper 2 or writing in a journal about what was going 3 on at work? 4 A. Yes, sir. 5 Q. Okay. 6 A. I mean, they knew I had notes. 7 Q. Who were they? Which ones? 8 A. All of them. Everybody on my 9 shift and the other shift. 10 Q. All right. Did they ever look 11 at them? 12 A. No, I don't reckon so. 13 Q. You don't remember ever 14 showing your notes to anybody? 15 A. I don't reckon. No. No. 16 Q. When you say they all knew 17 that you had them, what makes you say that? 18 A. I mean, I told them. 19 Q. Okay. Other than you telling 20 them -- 21 A. They seen that -- I kept them 22 in my jacket pocket. Wherever I went, they 23 went.</p>	<p style="text-align: right;">Page 96</p> <p>1 was took out of there like a prisoner, like 2 a criminal. Prater went and got my jacket 3 and brought it back to me, and there was no 4 notes in the pocket. 5 MR. SPORT: For the Record, 6 Matt, we've asked y'all for those notes and 7 haven't gotten them. 8 A. That's like this box here, I 9 don't know -- My locker stayed open, 10 unlocked, for two months after I was fired. 11 Then all of a sudden two months later they 12 come in and throw a lock on it for another 13 couple of months. Then they -- all of a 14 sudden they take the lock off again. 15 Q. You say that it was unlocked 16 for two months? 17 A. Yeah. 18 Q. I assume you didn't go back 19 there to see it personally? 20 A. No. 21 Q. What makes you think it was 22 unlocked for two months? 23 A. Bornberg told me. I asked him</p>

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<p style="text-align: right;">Page 97</p> <p>1 to look for my notes, and he said there's 2 nothing -- he said Kevin Hughes and Prater 3 had gone all through my locker. 4 Q. Do you know -- Did Bornberg go 5 there the day you were terminated or the day 6 after? 7 A. It was the day after. That 8 night I got terminated, I'd been at work an 9 hour -- I drove fifty-something miles to 10 work -- to work for an hour, didn't have a 11 clue I was being fired; got security guards 12 coming in with me, around my friends, 13 telling you, let's go. Like I said, I was 14 drug out like a criminal, and then that 15 lady, Wendy Warner, she was cold, short, 16 treated me like a piece of trash. 17 Q. Okay. 18 A. I've never been fired from a 19 job in my life. 20 Q. And we're going to talk more 21 about Wendy Warner before the day is out. 22 The notes that you're talking about, how 23 much information was it? How many pages?</p>	<p style="text-align: right;">Page 99</p> <p>1 up there in his office. He said however 2 Prater wants to run his shop, that's what 3 he's going to do and I'm going to back him 4 up. 5 Q. Is that all that Applegate had 6 to say? 7 A. Basically, yeah. Chewed me 8 out. 9 Q. Chewed you out how? 10 A. Told me that I needed to get 11 my act together. I mean, I got Guard duty, 12 I have a military obligation. I have to go 13 to that obligation. I'm going to go to that 14 obligation. Federal law protects me under 15 that obligation, but yet I'm still being 16 told that if I don't go to Guard duty and 17 don't show up to work, I'm going to be wrote 18 up for missing work. 19 Q. When Applegate said "get your 20 act together," what was he referring to? 21 A. I have no idea. I didn't ask 22 him. 23 Q. Did John Applegate ever ask to</p>
<p style="text-align: right;">Page 98</p> <p>1 One page, more pages? 2 A. No. No. There was several 3 pages. 4 Q. Several being what, two, 5 three? 6 A. Probably three or four. 7 Q. So. 8 A. My military career, when it 9 started, I figured it would drop after my 10 unit sent the letter, but, no. 11 Q. Okay. 12 A. But it wasn't just Prater, it 13 was Applegate, it was HR. It wasn't one 14 individual, it was company. 15 Q. What was Applegate doing? 16 A. He basically told me -- I 17 asked him one time, I said: What about the 18 letter my unit sent? He said: Well, I 19 ain't worried about that letter; He said, 20 whatever Prater says, I'm going to back him 21 up. I've never heard Prater say anything 22 out of the way, which he was never around 23 Prater when Prater was in our shop; he sat</p>	<p style="text-align: right;">Page 100</p> <p>1 see any military orders of yours? 2 A. No. He just told me that he 3 backed Prater up on whatever he said. 4 Q. Okay. 5 A. HR did, yeah. 6 Well, I take that back. There 7 was a little girl from HR, her name was 8 Keisha, I don't know what her last name is. 9 This was after my unit had sent the letter. 10 Said that -- She come out quoting something 11 from the ESGR regulation and then saying 12 that I had to provide orders so many days 13 prior to, or something, I don't remember. 14 And I said no, the regulation states that I 15 can be deployed up to three months on a 16 verbal order. 17 And I said: Y'all have my 18 schedule a year advance. You've had it. 19 They got my updated version, which he turned 20 in. It got so bad that when I -- like, the 21 -- I went to BNCOC Phase I, I believe in 22 September, and I was deployed in support of 23 Katrina, I had to carry my orders to human</p>

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<p style="text-align: right;">Page 101</p> <p>1 resources section myself, which y'all got 2 the papers somewhere in there where the HR 3 person had to sign off on me bringing my 4 orders up there, said manager not available, 5 because Prater wouldn't turn my orders in. 6 And you got Applegate and HR backing him up 7 on it, I'm against the wall. That's why I 8 kept notes. 9 Q. I want to carve out Greg 10 Prater for just a moment. 11 In terms of Mr. Applegate, how 12 many discussions did you have with him that 13 had anything to do with your military 14 service? 15 A. Two or three. 16 Q. Two or three? 17 A. I mean, every time I -- It was 18 several times, even after my unit sent the 19 letter. And he admitted to the letter being 20 there. 21 Q. All right. Do you think it 22 was more than two or three or just two or 23 three?</p>	<p style="text-align: right;">Page 103</p> <p>1 it? 2 A. No. 3 Q. How long before you were 4 actually terminated did your discussions 5 with Applegate take place? Was it back in 6 the fall? 7 A. It started around the fall. 8 And it went on up through December and 9 January. 10 Q. December and January? 11 A. Uh-huh. 12 Q. Did you have any problems 13 after January? 14 A. With -- Yeah, I mean -- 15 Q. With Applegate, I'm sorry. 16 A. With Applegate, yeah. 17 Q. Okay. So it went past 18 December and January, is what you're telling 19 me? 20 A. I believe it was in January, I 21 don't know. I don't remember the dates to 22 be exact. Like I say, they've got my notes, 23 that's got everything on it. They've got</p>
<p style="text-align: right;">Page 102</p> <p>1 A. I don't know. Like I said, it 2 was ongoing several, several months. 3 Q. All right. So over a period 4 of several months, you had several 5 discussions with him? 6 A. Uh-huh. And HR. 7 Q. But I'm asking about Applegate 8 for now. 9 A. Okay. 10 Q. During the discussions that 11 you had with Applegate, did he ever demand 12 to see any orders of yours? 13 A. I don't -- I don't think so. 14 I don't know. I don't remember. 15 Q. Okay. You -- 16 A. He said I needed to get my 17 mind together and focus on the plant, 18 instead of -- How did he phrase it? 19 He came up with some elaborate 20 word and said I needed to basically just 21 don't worry about my Guard duty and stay at 22 work. I don't remember how he phrased it. 23 Q. Do you remember when he said</p>	<p style="text-align: right;">Page 104</p> <p>1 them somewhere. I didn't bring them out of 2 the plant. 3 Prater is the one that brought 4 my jacket to me, they was in the pocket. He 5 had keys to my locker. I had security 6 guards on me, I couldn't go back and get my 7 personal stuff. I had to give Prater my 8 keys to my locker and it stayed unlocked. 9 He unlocked it and it stayed unlocked. And 10 I was pushed out with security guards in 11 front of everybody, like I said, like a 12 common criminal. 13 Q. During the time that you were 14 there, what kind of lock was on your locker? 15 A. I don't remember. I think it 16 was just a little red Master lock. 17 Q. Was it a keyed lock or 18 combination? 19 A. It was a keyed lock. I had to 20 give Prater my keys to get in it. 21 Q. Okay. 22 A. He's the one who brought my 23 stuff to me. And all he brought was my</p>

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<p style="text-align: right;">Page 105</p> <p>1 jacket and a little MP3 player that they had 2 given us for Christmas. 3 Q. Was he with anybody else? 4 A. No. I mean, I had to -- Like 5 I said, I had to stay there with the 6 security guards. 7 Q. Okay. 8 A. And Applegate may have walked 9 around with him. I don't know, I was so 10 upset. I didn't -- 11 Q. When you came to work that 12 morning -- 13 A. That night. 14 Q. I mean that night. -- had you 15 gone to your locker? 16 A. Yes, sir. I mean that's where 17 my tools was at. I had to go to my locker, 18 get my tools out. And that's the first 19 thing we did was go get our tools, go out on 20 the floor and get back briefed and all for 21 the shift, any problems we had. And I 22 went -- I'd go to my area of responsibility, 23 which was SOPS.</p>	<p style="text-align: right;">Page 107</p> <p>1 here. I walk around there, and there's the 2 security guards and John Applegate. I knew 3 what was going on, because I heard the 4 rumors, the war stories when they fire 5 someone. They bring security guards in and 6 try to bag and tag you and take you out. I 7 said, I can't believe this is happening. He 8 said no, no, we're just going to talk, you 9 ain't fired. I said, what's the security 10 guards doing here? No. No. We need to 11 talk. I said no, I know what's going on. 12 So I grabbed my radio, took it off, gave it 13 to Applegate, I think. I said, I'm going 14 back to go get my junk; I said I know y'all 15 are taking me to the gates, I'm going to get 16 my junk. No, you can't go back in there. 17 And the security guards come up. I said, 18 I've got personal stuff in there, I'm going 19 to get. No, you can't go get it. I said, 20 well, I'm not leaving without my gear. 21 Prater said, well, I'll go get it, he said 22 give me your keys. So I handed him my keys. 23 Like I said, I was so upset, I don't</p>
<p style="text-align: right;">Page 106</p> <p>1 Q. So at what point during that 2 evening were you pulled off the job? 3 A. I'd been there probably thirty 4 minutes or an hour. 5 Q. Tell me what you had done that 6 day so far. 7 A. Nothing. Like I said, I come 8 in, went to my locker, got my tools. 9 Q. Did you put your coat in your 10 locker? 11 A. Yes, sir. Because it was warm 12 that night. And I went out on the floor. 13 Might have been Paul Powell and then I was 14 talking to, I don't know, somebody on the 15 other shift, to see if we had problems that 16 day. And then I went back up to my area. 17 And about -- They was having a problem or 18 something on the press, and I seen Mr. Moon 19 down there, and I come down and was talking 20 to him, and my fellow coworkers. Prater 21 come up and said we need to talk. I turn 22 around and walk off to the office and -- 23 Applegate's office; he said no, no, around</p>	<p style="text-align: right;">Page 108</p> <p>1 remember if Applegate went with him or not. 2 Q. Okay. 3 A. Then they whisked me out with 4 security guards, took me around to the gate, 5 five miles from the parking lot I had parked 6 in, took me in the office, I walked in and 7 all the security guards are sitting there 8 bowed up, staring at me, walked me in a 9 little room. That lady sits me down, 10 introduces everybody, says her name, the 11 next fellow's name, Applegate's, and 12 somebody was sitting on my side of the 13 table, I don't remember. Held a letter up 14 like this (indicating), read it, slammed it 15 down on the table. I said, you're firing 16 me; I said, you've got a team leader in 17 there who's threatening several people 18 jumped up in their faces and you're firing 19 me and letting him stay. She said yes. 20 Q. Who are you referring to? 21 A. Wendy Warner, I guess. I 22 didn't know the lady. 23 Q. No. Who is the team leader</p>

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<p style="text-align: right;">Page 109</p> <p>1 you're referring to?</p> <p>2 A. Kevin Hughes. I mean he had</p> <p>3 had several altercations.</p> <p>4 Anyhow, she slammed the paper</p> <p>5 face down on the table, got up and walked</p> <p>6 out. She was just cold. The little short</p> <p>7 fellow, I don't remember his name, she told</p> <p>8 me his name. I mean, he was cordial, but --</p> <p>9 Q. What did he look like?</p> <p>10 A. I don't know. Just a little</p> <p>11 short fellow, a little overweight. He</p> <p>12 wasn't fat. I don't know.</p> <p>13 Q. Okay. You don't remember his</p> <p>14 name?</p> <p>15 A. Huh-uh.</p> <p>16 Q. Did he wear glasses?</p> <p>17 A. I don't remember. I was --</p> <p>18 like I said, I was upset. I've never been</p> <p>19 fired, never had a blemish in my civilian or</p> <p>20 military record. And here all of a sudden</p> <p>21 I'm getting fired for something I didn't do.</p> <p>22 Q. Had Greg Prater brought you</p> <p>23 your jacket yet?</p>	<p style="text-align: right;">Page 111</p> <p>1 and he said here, here's your jacket.</p> <p>2 Q. Did you look in your jacket at</p> <p>3 that point?</p> <p>4 A. I looked in my jacket when</p> <p>5 Prater brought it to me.</p> <p>6 Q. Did you know that there were</p> <p>7 notes missing?</p> <p>8 A. Yes, I did.</p> <p>9 Q. Did you say anything to</p> <p>10 Applegate?</p> <p>11 A. That's when I said, can I go</p> <p>12 back and get my stuff. No. Security guard,</p> <p>13 they put me in the vehicle, we left. I</p> <p>14 mean . . .</p> <p>15 Q. When you were in the room with</p> <p>16 Wendy Warner and the other gentlemen,</p> <p>17 including Mr. Applegate, did you tell them</p> <p>18 that I have some notes that are missing?</p> <p>19 A. I asked them could I go back</p> <p>20 and get my personal stuff, that's what I</p> <p>21 asked Applegate, said my tool bag and my</p> <p>22 personal stuff, like I said before.</p> <p>23 Q. But you never told them</p>
<p style="text-align: right;">Page 110</p> <p>1 A. Yeah. He brought it to me</p> <p>2 before the security guards took me out.</p> <p>3 Like I said -- and I asked them then, I said</p> <p>4 all that's in here is the MP3 player. I</p> <p>5 said, when am I going to get the rest of my</p> <p>6 junk, in the vehicle on the way around</p> <p>7 there. We'll mail it to you.</p> <p>8 Q. Did you -- When you were in</p> <p>9 the room with Wendy Warner and the other</p> <p>10 fellow that you were talking, and anybody</p> <p>11 else that was in the room, did you tell</p> <p>12 them, I've got more personal stuff in my</p> <p>13 locker and I'd like to go get it?</p> <p>14 A. She -- Yes, sir.</p> <p>15 Q. You said that to Wendy Warner</p> <p>16 and the other people?</p> <p>17 A. I asked was I going to be able</p> <p>18 to get my tool bag and my other stuff. And</p> <p>19 Applegate is the one that told me no, said,</p> <p>20 you're not going back in the plant.</p> <p>21 She slammed the paper down and</p> <p>22 got up and left. And Applegate, he took my</p> <p>23 keys to my personal safety lock, my lock,</p>	<p style="text-align: right;">Page 112</p> <p>1 anything specific that you were missing</p> <p>2 other than your tool bag?</p> <p>3 A. I said my personal stuff.</p> <p>4 Q. And you never mentioned any</p> <p>5 notes?</p> <p>6 A. No. I didn't mention</p> <p>7 specifically. I said my personal stuff,</p> <p>8 like I said.</p> <p>9 Q. Is it your testimony that you</p> <p>10 were aware at that point in time that your</p> <p>11 notes were not in your jacket?</p> <p>12 A. Yes, sir. Like I said, Prater</p> <p>13 went and got my jacket, so . . .</p> <p>14 Q. Did you ask Prater where your</p> <p>15 notes were?</p> <p>16 A. I don't remember. Like I say,</p> <p>17 I was mad. I was upset. I never had -- I</p> <p>18 never had anything -- Like I say, I've</p> <p>19 served my country and I've served it</p> <p>20 proudly, and I've served it for a long time.</p> <p>21 Q. Okay.</p> <p>22 A. And I'll do it again, gladly.</p> <p>23 And I've never, never been treated like I</p>

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<p style="text-align: right;">Page 113</p> <p>1 was a piece of trash like I was that night. 2 It was embarrassing. Then I have to go to 3 church on Sunday and look at my friends and 4 everybody knows, he got fired because he's 5 supposedly sleeping on the job. Everybody 6 is looking at you. No, that ain't right. 7 Q. Where were you when you 8 realized that the notes weren't in your 9 jacket? 10 A. There at the shop when they 11 brought me my jacket, like I said before. 12 Q. How far is the shop from your 13 locker? 14 A. My locker was in the shop. We 15 was on the outside of the shop. I wasn't in 16 the shop. He walked me from my area, around 17 the office, said go on around here. And we 18 went around the side of the shop. 19 Q. Could you see your locker from 20 where you were outside the shop? 21 A. No, sir. Block wall. And I 22 had the security guards there telling me I 23 couldn't go nowhere.</p>	<p style="text-align: right;">Page 115</p> <p>1 taken care of. The first two years kicked 2 my butt. After that, I haven't had a 3 problem since. 4 Q. Okay. When was this you filed 5 bankruptcy? 6 A. I don't know. You'll have to 7 -- I don't know. I'll have to get back with 8 you on that. 9 Q. Right when you got back from 10 Germany, though? 11 A. No, sir. It wasn't right -- 12 It was like a year or two later. I don't 13 remember. 14 Q. Where were you working then? 15 A. I don't remember. 16 Q. During the time that you were 17 with Hyundai, did you file any sort of 18 complaints with the HR department? 19 A. Yes, sir. That's where I 20 started out. It, apparently, didn't do no 21 good. 22 Q. All right. Let's talk about 23 the complaints. Did you file any written</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. Okay. And we're going to get 2 back to some of these issues, but I want to 3 cover some more basic stuff before we get 4 into it more deeply. 5 Have you ever filed any other 6 lawsuits? 7 A. No, sir. 8 Q. Have you ever filed any 9 administrative complaints like with the EEOC 10 or some sort of governmental entity? 11 A. No, sir. 12 Q. Have you ever been sued? 13 A. No, sir. 14 Q. And you may have shaken your 15 head, but I don't know if I heard you say 16 no -- 17 A. No. 18 Q. You've not filed any EEOC -- 19 A. I filed -- When me and my wife 20 first came home from Germany, probably two 21 years after being home, I filed bankruptcy 22 because I didn't manage my finances right, I 23 was used to being in the Army and everything</p>	<p style="text-align: right;">Page 116</p> <p>1 complaints? 2 A. No, sir. There wasn't no form 3 -- a format for filing written complaints. 4 And when we tried, they didn't want to hear 5 it. 6 Q. Okay. Did you ever talk to a 7 team relations representative about problems 8 you were having? 9 A. Several times. Lucas Cooner 10 and Will Ware. 11 Q. Will Ware? 12 A. Yes, sir. And Lucas Cooner. 13 Q. Anybody else with Hyundai? 14 A. Greg Kimball. 15 Q. Greg Kimball? 16 A. And Keisha. I don't know what 17 -- I don't remember what her last name is. 18 She is no longer there. She went to Kia. 19 They moved her to Kia, in the HR department. 20 Q. Can you think of anybody else 21 that you complained to? 22 A. Other than the managers and 23 assistant managers, the production manager</p>

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<p style="text-align: right;">Page 117</p> <p>1 who said he was over Prater, Craig Stapley 2 and Jim Brookshire both. 3 Q. And the production manager was 4 who? 5 A. Craig Stapley -- 6 Q. Stapler? 7 A. Stapley, S-T-A-P-L-E-Y. 8 Q. All right. And what other 9 members of management did you complain to? 10 A. That was about it, I reckon. 11 Q. Just to make sure I'm clear, 12 you never submitted anything in writing to 13 human resources? 14 A. There was no way to submit 15 anything in writing. When I complained they 16 didn't want to hear anything about it. I 17 submitted an e-mail to Greg Kimball about 18 Prater harassing me about my Guard duty, and 19 I never received a reply to the e-mail in 20 person or anything. 21 Q. When you say the last time 22 Greg Prater harassed you about your Guard 23 duty --</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. What was your log-in? 2 A. I don't know. That was a year 3 ago, almost. I don't know. 4 Q. Okay. 5 A. I have no idea. I think it 6 was my clock number, I think. I'm not sure. 7 Q. Okay. Do you know when you 8 were assigned the log-in ID? 9 A. It wasn't long after I was 10 hired. I'm not sure. 11 Q. Was it after you were hired? 12 A. Yeah. 13 Q. Okay. So when you say you 14 sent an e-mail to Greg Kimball, would that 15 have been on an internal Hyundai system, 16 e-mail system? 17 A. Yes, sir. 18 Q. You didn't send it from 19 Yahoo -- 20 A. No, sir. 21 Q. -- or Google e-mail or 22 anything like that? 23 A. No, sir. It was on the</p>
<p style="text-align: right;">Page 118</p> <p>1 A. Before I got fired. 2 Q. Where did you send the e-mail 3 from? 4 A. The maintenance shop. 5 Q. All right. Was Greg Kimball 6 working at that time? 7 A. I don't remember. I think it 8 was on -- I don't remember if it was on day 9 shift or night shift. I think it was on 10 night shift. But the e-mail, I mean, that 11 was probably a month before I'd gotten 12 fired, and he had plenty of time to respond. 13 MR. SPORT: Matt, we'd like to 14 request that e-mail, because I don't think 15 we have that. 16 (Recess taken.) 17 Q. Mr. Dees, we're back on the 18 Record. 19 You had talked a minute ago 20 about an e-mail you sent to Greg Kimball. 21 Did you have a log-in ID and a password at 22 Hyundai? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 120</p> <p>1 Hyundai system. 2 Q. And it was while you were at 3 work? 4 A. Yes, sir. 5 Q. And do you remember where you 6 sent it from? 7 A. The maintenance shop. Stamp 8 and maintenance shop. 9 Q. Anybody else see you send it? 10 A. Drake Barefoot and someone 11 else was there. I don't remember who the 12 other one was. 13 Q. Do you remember what was in 14 it? 15 A. It was a -- I don't remember 16 the exact wording, no. I was complaining to 17 Mr. Kimball that Prater was still giving me 18 a hard time about my Guard duty, and I felt 19 that my job was in jeopardy for that reason. 20 Because even -- Like I said, even after my 21 unit sent the letter, I complained to HR at 22 least two more times and both times met with 23 negative results, and I was still getting</p>

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<p style="text-align: right;">Page 121</p> <p>1 harassed about getting orders for my weekend 2 duty, when I wasn't showing up to work to go 3 to drill. 4 Q. Was the e-mail after you went 5 to HR? 6 A. Yes, sir. 7 Q. And the e-mail was after 8 somebody apparently sent a letter to 9 Hyundai? 10 A. Yes, sir. After my unit sent 11 the letter. 12 Q. Okay. Did you talk to anybody 13 else in management or in HR after you sent 14 that e-mail? 15 A. No, sir. I don't believe so. 16 Q. Okay. 17 A. I mean, I don't know. Like I 18 said, that was almost a year ago. 19 Q. Okay. But you don't recall 20 it? 21 A. No, sir. 22 Q. Do you recall having any more 23 discussions with Greg Prater about your</p>	<p style="text-align: right;">Page 123</p> <p>1 A. Prater. And supposedly 2 Applegate was backing him up, because 3 Applegate backed him on everything else, and 4 HR backed him too. And he told me I had to 5 use my vacation time -- He was thinking 6 about making me use my vacation time in lieu 7 of my military leave. And I said, well, 8 you're just going to go against the HMMA 9 handbook and throw it out the window. Rob 10 Clevenger told me I can do whatever I want 11 to, run my shop however I need to for the 12 benefit of the company. 13 Q. And this is Greg Prater said 14 that? 15 A. Yes, sir. Then he said that 16 Rob Clevenger had told him that. 17 Q. Did John Applegate ever tell 18 him he could do that, to your knowledge? 19 A. John Applegate told me to my 20 face that whatever decision Greg Prater 21 makes, he would back him on it. 22 Q. Did anybody else from human 23 resources ever say anything like that, to</p>
<p style="text-align: right;">Page 122</p> <p>1 service or weekend duty or anything after 2 that e-mail got sent? 3 A. He was always -- If he wasn't 4 telling me to bring in orders about my Guard 5 duty, he was making fun of what we did. Oh, 6 y'all just go down there and drink. Like I 7 said, it didn't matter who I complained to, 8 I complained to Greg Kimball, or Keisha, 9 John Applegate, they all: Well, I've never 10 heard Greg say anything like, I've never 11 heard Greg talk in a derogatory manner. 12 Q. That's what they said? 13 A. Yeah. And we back Greg up in 14 any decision he makes. 15 Q. When you talked to William 16 Ware, who's with team relations, what did he 17 say about it? 18 A. Prater would always use the 19 excuse that Rob Clevenger just said I can 20 do -- just like in the instance he was 21 trying to make me use my vacation for my 22 military service when I went to school. 23 Q. Who was?</p>	<p style="text-align: right;">Page 124</p> <p>1 your knowledge? 2 A. Keisha -- Greg Kimball -- The 3 only reason HR got on to Prater the first 4 time was because he told us we couldn't talk 5 to HR. As far as my military obligation, 6 anything else, nothing ever came out of 7 that. It was just like I hadn't said 8 anything to them at all. 9 (Off-the-Record discussion 10 was held.) 11 Q. The notes that you said you 12 kept? 13 A. Yes, sir. 14 Q. When did you start keeping 15 them? 16 A. The first time I went to HR. 17 I mean, when Prater -- he was -- He said he 18 was a tank commander in the National Guard 19 as an E-4, that's not allowed. It goes 20 against Army regulation. 21 Q. Say that again. I'm sorry. 22 A. He said that he was a tank 23 commander in the National Guard as an E-4.</p>

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<p style="text-align: right;">Page 125</p> <p>1 He showed me his ID card one time, he was a 2 corporal, and his ID card was expired. And 3 you're not allowed to be a tank commander in 4 the National Guard or the Army, period, as 5 an E-4. You have to be an E-7 or higher. 6 But anyhow -- What did you ask me? What did 7 I start out on? 8 Q. No. Let's -- I mean -- 9 A. Like I said, Clevenger and all 10 of them -- His excuse on everything was Rob 11 Clevenger told me I can run my shop how I 12 want to for the benefit of the company. 13 Q. Okay. Now, to your knowledge, 14 did Rob Clevenger ever say anything to you 15 about your military service? 16 A. I never met the man. 17 Q. So you don't have any 18 firsthand information -- 19 A. But Will Ware sat there and 20 told Prater, well, he can do whatever he 21 wants to, in front of me and everybody. 22 Q. Said who can do whatever he 23 wants to?</p>	<p style="text-align: right;">Page 127</p> <p>1 Everything was Rob Clevenger and human 2 resources and Applegate said I can do this. 3 And every time we talked to human relations 4 or human resources or Applegate, they backed 5 him up on every conversation. 6 Q. Okay. Tell me when did -- You 7 first started taking notes when? 8 A. Like I said, the very first 9 time he got on to me about my Guard duty. I 10 don't remember the exact date. I have no 11 idea. 12 Q. Do you remember the 13 approximate date? 14 A. No. I mean, August, 15 September, I don't know. July, August, 16 September, I don't know. 17 Q. At that point in time, did he 18 have your calendar for that year? 19 A. He had my calendar when I 20 hired on. 21 Q. Okay. 22 A. We get our yearly training 23 calendar every October.</p>
<p style="text-align: right;">Page 126</p> <p>1 A. That Prater could. And that 2 Applegate and HR could. He said we can run 3 the company however we want to. 4 Q. William Ware said that? 5 A. Yes, sir. Because Prater put 6 him on the spot, and he had to come up with 7 an answer. 8 Q. How did Prater put him on the 9 spot? 10 A. Prater -- Because I was told 11 to stay over that morning. Their handbook, 12 once again, states that you don't have to 13 stay over -- you can't be forced over ten 14 hours. I'd worked ten hours, Prater come up 15 and asked questions. I said as long as it 16 don't take over fifteen minutes, I'm tired. 17 He said, I can force you to stay here 18 twenty-four hours a day if I want to. I 19 said, no, once again, that goes against your 20 own handbook. 21 Q. What -- Is this a different 22 conversation here? 23 A. Yeah. Like I said he just --</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Uh-huh. 2 A. And he had it in his office on 3 his desk. 4 Q. Greg Prater did? 5 A. Yes, sir. 6 Q. Okay. So there would be no 7 question that if you were scheduled for 8 duty, he had it in advance? 9 A. Yes, sir. 10 Q. Okay. 11 A. But yet he still wanted 12 military orders. And I backed him up on it. 13 Q. Did he want military orders 14 for every single weekend duty, every 15 training -- 16 A. Not the first six or eight 17 months, no, sir. 18 Q. Okay. When did he ask for 19 orders? 20 A. Like I said, I don't remember 21 the exact date. I don't know. You're 22 wanting a date, and I can't give it to you. 23 Q. Can you give me an approximate</p>

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<p style="text-align: right;">Page 129</p> <p>1 date?</p> <p>2 A. I already did.</p> <p>3 MR. SPORT: Matt, we've</p> <p>4 produced those documents, those drill</p> <p>5 schedules, but they've not been produced to</p> <p>6 us from Hyundai's records, so we'd also like</p> <p>7 those.</p> <p>8 Q. And, again, just to make sure</p> <p>9 I'm clear, the year that you say that he</p> <p>10 started demanding orders, that was in 2006?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. Do you have any idea</p> <p>13 approximately how many times Greg Prater</p> <p>14 asked you for copies of your orders?</p> <p>15 A. I don't know. Seems like it</p> <p>16 was every month. But to be honest, the</p> <p>17 exact times, no. I have no idea.</p> <p>18 Q. Do you remember when the last</p> <p>19 time he asked you for a copy of your orders</p> <p>20 was?</p> <p>21 A. No, sir. Like I said, I don't</p> <p>22 -- the exact dates and times, no, sir. I</p> <p>23 don't know.</p>	<p style="text-align: right;">Page 131</p> <p>1 statement, no, this ain't Guard related, and</p> <p>2 he was out of it.</p> <p>3 Q. All right. You don't remember</p> <p>4 who told you that?</p> <p>5 A. The ESGR rep. I don't</p> <p>6 remember his name, no.</p> <p>7 Q. Did he provide you any sort of</p> <p>8 paperwork or anything?</p> <p>9 A. No, sir.</p> <p>10 Q. Do you know if Hyundai</p> <p>11 provided him with any paperwork or evidence?</p> <p>12 A. No, sir. He said that -- Per</p> <p>13 the conversation, he said I called them, and</p> <p>14 this is what was said, so I'm out of it.</p> <p>15 Q. Okay.</p> <p>16 A. So I don't know if they</p> <p>17 provided him with paperwork or not. I mean,</p> <p>18 I have no idea.</p> <p>19 Q. Again, I just want to make</p> <p>20 sure I understand what it is he said he was</p> <p>21 told. This didn't have to do with guard</p> <p>22 duty?</p> <p>23 A. That's what they told him.</p>
<p style="text-align: right;">Page 130</p> <p>1 Q. Okay. Was there a period in</p> <p>2 time from the date that you were terminated</p> <p>3 in which you and Greg Prater did not have</p> <p>4 any discussions about your Guard duties?</p> <p>5 A. I don't know. I filed a</p> <p>6 complaint to the ESGR.</p> <p>7 Q. When was that?</p> <p>8 A. I don't know. I don't know if</p> <p>9 it was right before I got fired or after I</p> <p>10 got fired. And they basically told me that</p> <p>11 if Hyundai tells them it's not a military</p> <p>12 matter, they don't have anything to do with</p> <p>13 it. And that's what happened, so that was a</p> <p>14 deadend street.</p> <p>15 Q. Wait. Who said that?</p> <p>16 A. The ESGR representative. I</p> <p>17 can't remember his name. Dan or -- I don't</p> <p>18 remember. I e-mailed him and he e-mailed me</p> <p>19 and he said -- then he called me one time</p> <p>20 and said, well, I've called them, they told</p> <p>21 me this has nothing to do with the Guard, so</p> <p>22 therefore I cannot get involved. And he</p> <p>23 went off, all they got to do was a</p>	<p style="text-align: right;">Page 132</p> <p>1 That's what they're going to say. That's</p> <p>2 common sense. I mean . . .</p> <p>3 Q. And to your knowledge, he</p> <p>4 didn't know anything else?</p> <p>5 A. No, sir.</p> <p>6 Q. And you don't remember his</p> <p>7 name?</p> <p>8 A. I think it was Dan something.</p> <p>9 I don't know. They've got -- They had</p> <p>10 copies of the e-mails. I don't know.</p> <p>11 Q. Who is they?</p> <p>12 A. Hyundai, I think. I don't</p> <p>13 remember. I seen a copy of it somewhere. I</p> <p>14 don't know.</p> <p>15 (Whereupon, Defendant's</p> <p>16 Exhibit No. 3 was marked</p> <p>17 for identification.)</p> <p>18 Q. Okay. Let's go -- I want to</p> <p>19 go through what we've marked as Defendant's</p> <p>20 Exhibit 3, which is a copy of the complaint</p> <p>21 that you and your lawyers filed.</p> <p>22 If you go over a couple of</p> <p>23 pages you'll see a page that's marked</p>

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<p style="text-align: right;">Page 133</p> <p>1 complaint.</p> <p>2 A. All right.</p> <p>3 Q. Did you have an opportunity to</p> <p>4 review it before it got filed?</p> <p>5 A. Yes, sir. I believe so.</p> <p>6 Q. Okay.</p> <p>7 A. I believe. I don't know.</p> <p>8 Like I say, that's been a year ago.</p> <p>9 Q. Okay. Let's turn to page two,</p> <p>10 paragraph seven. In there it says you began</p> <p>11 working on or about November 21, 2005. Do</p> <p>12 you agree with that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. And it says you were</p> <p>15 working as a maintenance technician in the</p> <p>16 stamping maintenance department; is that</p> <p>17 accurate?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And were you working under the</p> <p>20 direct supervision of Kevin Hughes, who is</p> <p>21 identified as a team leader?</p> <p>22 A. Yes, sir, he was a team</p> <p>23 leader.</p>	<p style="text-align: right;">Page 135</p> <p>1 over in the stamping shop.</p> <p>2 Q. Okay. So when did John</p> <p>3 Applegate tell you anything about his</p> <p>4 relationship with Greg Prater?</p> <p>5 A. As in?</p> <p>6 Q. His working relationship, who</p> <p>7 reported to who?</p> <p>8 A. Well, the very first time I --</p> <p>9 I believe it was the first time I went to</p> <p>10 HR. Then after HR, Applegate wanted to know</p> <p>11 why we had gone to HR, I believe.</p> <p>12 Q. When you say "we went to HR,"</p> <p>13 who are you talking about?</p> <p>14 A. I, myself, Barefoot, and</p> <p>15 Weihe.</p> <p>16 Q. All right. And what was that</p> <p>17 about?</p> <p>18 A. It all started with me because</p> <p>19 of Prater and my Guard duty. Then it went</p> <p>20 from that to he told -- I told him, I said,</p> <p>21 well, I'm going to talk to HR about this</p> <p>22 after this meeting. He said HR is not in</p> <p>23 your chain of command, you don't have the</p>
<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. And were you also</p> <p>2 working under Greg Prater?</p> <p>3 A. Yes, sir. He was the</p> <p>4 assistant manager.</p> <p>5 Q. Okay. And it's indicated in</p> <p>6 here that Greg Prater reported to John</p> <p>7 Applegate, is that your understanding?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And who -- Do you know who</p> <p>10 John Applegate is?</p> <p>11 A. As far as I know, he was the</p> <p>12 only American in charge of the American side</p> <p>13 of the maintenance.</p> <p>14 Q. What makes you think that</p> <p>15 Prater was reporting to Applegate?</p> <p>16 A. Only thing we had -- That was</p> <p>17 the way Applegate and Prater put it.</p> <p>18 Q. To who?</p> <p>19 A. All of us in the section.</p> <p>20 Q. Okay. I mean, did you have</p> <p>21 regular conversations with John Applegate?</p> <p>22 A. No, sir. He had an office</p> <p>23 over in the energy building, and we worked</p>	<p style="text-align: right;">Page 136</p> <p>1 authority to talk to them.</p> <p>2 Q. Who said that?</p> <p>3 A. Prater. I said -- Well, I</p> <p>4 said, the handbook we're supposed to be</p> <p>5 going by says HR has an open-door policy,</p> <p>6 and I can talk to them any time. And I</p> <p>7 said, you're telling me my Guard duty is a</p> <p>8 problem, I said, I'm going to talk to HR.</p> <p>9 And Chris Weihe and Barefoot said, well,</p> <p>10 we're going to talk to them too. They had</p> <p>11 their own issues.</p> <p>12 Q. Let me ask you this. So you</p> <p>13 sat down with Greg Prater and Chris Weihe?</p> <p>14 A. No. He called the whole shift</p> <p>15 in. It started out about a schedule. He</p> <p>16 called the whole shift in, some goof up</p> <p>17 about a schedule, the weekend. They got a</p> <p>18 force list, an overtime force list. And he</p> <p>19 would just take his force list and disregard</p> <p>20 it, his own list, and that Applegate had</p> <p>21 signed off on and HR had signed off on, and</p> <p>22 threw it out the window and come out with</p> <p>23 his own list. I had Guard duty that</p>

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<p style="text-align: right;">Page 137</p> <p>1 weekend, I said, I'm not going to be here. 2 He said, you're going to be here or you're 3 going to produce orders. I said, I'm going 4 to talk to HR. 5 Q. Okay. And Chris Weihe and 6 Drake Barefoot were in on that discussion? 7 A. The whole shift was. 8 Q. Okay. And tell me more. What 9 else did Greg Prater say -- Was that the 10 first time you had a problem with him about 11 your Guard duty? 12 A. That's where it all started, 13 yes. 14 Q. Okay. 15 A. Wasn't the first time. I'd 16 been blowing it off up to this point. 17 Q. Okay. Who did you go see -- 18 Well, did you go see -- 19 A. That was the first time I went 20 to HR and complained about it. 21 Q. Is that when you talked to 22 Keisha? 23 A. No, sir. That's when I talked</p>	<p style="text-align: right;">Page 139</p> <p>1 the very first time it happened. 2 Q. Okay. Let me go back to your 3 complaint. In paragraph eight there on page 4 three, it says that harassment of Dees by 5 Hyundai through Prater and Hughes began 6 almost immediately when Prater learned that 7 Dees was a member of the Alabama Army 8 National Guard and had served two tours in 9 Iraq. 10 Did Greg Prater -- How did 11 Greg Prater harass you because you were a 12 member of the Guard or because you served to 13 tours in Iraq? 14 A. He said that -- He made the 15 comment that he had been in Baghdad, he had 16 killed people, he had been a Navy SEAL, he 17 had been a tank commander. And when I asked 18 him where he was at in Baghdad, he says -- 19 when I asked him where he was in Iraq, I was 20 on the southside of Baghdad. I said, what 21 compound? I don't remember, there was so 22 many. I said, what was the name of the 23 compound? I don't remember. You know how</p>
<p style="text-align: right;">Page 138</p> <p>1 to Greg Kimball. He was the very first one 2 I talked to. I was told that he was the man 3 in charge of human resources, and that's who 4 I talked to. 5 Q. And you spoke to him face to 6 face? 7 A. Yes, sir. In his office. 8 Q. Okay. I mean, did you submit 9 anything in writing to him? 10 A. No, sir. 11 Q. Any e-mails at that time? 12 A. No, sir. 13 Q. I mean, did you just show up 14 in his office, did you schedule a meeting 15 with him? 16 A. I took my lunch break. I did 17 not leave my work floor -- 18 Q. What time was your lunch 19 break? 20 A. I don't remember. 21 Q. You were working the night 22 shift? 23 A. No. I was on the day shift</p>	<p style="text-align: right;">Page 140</p> <p>1 it was there was compounds all over the 2 southside of Baghdad. I said, no, there 3 wasn't, there was one, the one I lived in. 4 And I had put him on the spot 5 because I listened to him six or eight 6 months, him and Applegate come around and 7 Prater start running up and talking about 8 how he been in combat and killed so many 9 people. And Applegate was like, yeah, this 10 is my boy. And I got friends that died in 11 Iraq, I've killed people in Iraq, and my 12 friends served proudly in Iraq. And 13 Applegate and HR and everybody was making a 14 disgrace of what we had done. 15 Q. Well, what -- 16 A. When I went to them with my 17 complaints about my Guard duty, being forced 18 to produce military orders, they were like, 19 well, we'll look into the regulations. 20 Q. Did Applegate ever demean you 21 or try to diminish your service in Iraq in 22 any way? 23 A. He basically sat there the</p>

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<p style="text-align: right;">Page 141</p> <p>1 last -- said, well, I know Prater is a hero. 2 And he's -- like I said, basically he's my 3 man, he's my boy. 4 Q. When did he say that? 5 A. I don't remember the exact 6 date. I don't know. 7 Q. Okay. 8 A. Ask him. 9 Q. Other than saying good things 10 about Prater, did he say anything bad about 11 you or your service? 12 A. Directly, no. 13 Q. Indirectly what did he say? 14 A. Well, I -- I don't know. Like 15 I say, that's been a long time ago. 16 Q. All right. I need -- 17 A. And just -- You're asking a 18 question I can't answer. 19 Q. That's fine. If you can't 20 answer, that's all I need to know. 21 A. He'd make comments like: What 22 do you need to go down there for, all y'all 23 do is party.</p>	<p style="text-align: right;">Page 143</p> <p>1 when you do this duty is party? 2 A. To my face, yes. 3 Q. Okay. So did he and Prater 4 say that? 5 A. Prater said that in front of 6 everybody. 7 Q. Okay. Who did John Applegate 8 say it in front of? 9 A. Me. Like I said, I had to 10 have meetings -- If I complained to HR, I 11 had to go see Applegate. 12 Q. There are no witnesses to 13 Applegate saying all y'all do is party; 14 right? 15 A. Nope. 16 Did your lawyers interview him 17 too? 18 Q. Let me ask you about Keisha. 19 Did Keisha ever say anything to you about 20 you or your service in the Guard or Iraq? 21 A. No. She just said I had to 22 have orders before I could be deployed or 23 sent out.</p>
<p style="text-align: right;">Page 142</p> <p>1 Q. Who said that? 2 A. Prater -- 3 Q. I know. Let's talk about 4 Applegate. Let's try to do this in some 5 orderly fashion. 6 A. It's my depo, so I've got to 7 go at my own rate. 8 Q. All right. Let me ask you 9 this: Am I hearing you correctly that you 10 don't have anything to tell me about ways 11 that Applegate either directly or indirectly 12 said bad things about you or your service? 13 A. No. Just, like I said, that I 14 need to focus more on my job and not worry 15 about my Guard duty, and most of the time 16 all they do is party down there anyhow. 17 Q. Is that the worst thing that 18 Applegate said? 19 A. Yeah. Other than like I said, 20 just backing Prater up saying whatever 21 Prater decides is what I'm going with. 22 Q. And are you telling me that 23 John Applegate told you that all y'all do</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Did Greg Kimball ever say 2 anything about you or your service in the 3 Guard or Iraq or Korea or anywhere else? 4 A. No. The only thing he was 5 worried about was that Prater told us we 6 couldn't talk to human resources. He didn't 7 care about -- basically didn't care about 8 the complaint I was making about Prater 9 harassing me about my Guard. The only thing 10 he worried about was Prater telling we 11 couldn't talk to human resources. 12 Q. Because he disagreed with it? 13 A. Yeah. Because it's basically 14 telling him that he's not over Prater, that 15 Prater can do whatever he wants. That's the 16 only reason he got -- He could care less 17 whether Prater was harassing me about my 18 Guard service. 19 Q. What makes you think he could 20 care less? 21 A. Because nothing was done about 22 it, ever. 23 Q. Let me ask you this: Did</p>

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<p style="text-align: right;">Page 145</p> <p>1 Kimball ever say anything to suggest that</p> <p>2 either you or your service in Iraq or the</p> <p>3 Guard was insignificant?</p> <p>4 A. No. Like I say, the only</p> <p>5 thing he cared about was Prater saying we</p> <p>6 couldn't talk to him.</p> <p>7 Q. Okay.</p> <p>8 A. But that still doesn't excuse</p> <p>9 the fact that he let Prater get away with</p> <p>10 telling me I had to have military orders or</p> <p>11 I was going to get wrote up for missing</p> <p>12 work.</p> <p>13 Q. Did William Ware ever say</p> <p>14 anything to you about your military service,</p> <p>15 your Guard duty service in Iraq?</p> <p>16 A. No. Will's only job there was</p> <p>17 to keep the union out, keep peace, and tell</p> <p>18 us that Prater could do whatever he wanted</p> <p>19 to.</p> <p>20 Q. Okay. Did anybody other than</p> <p>21 Applegate and/or Prater say anything about</p> <p>22 your service in Iraq, your service in the</p> <p>23 National Guard, or your uniformed service?</p>	<p style="text-align: right;">Page 147</p> <p>1 that during your reserve or Guard duty</p> <p>2 people partied?</p> <p>3 A. Yes.</p> <p>4 Q. And did he ever say anything</p> <p>5 else that was demeaning or insulting or</p> <p>6 harassing in any way with respect to your</p> <p>7 service?</p> <p>8 A. Other than backing Prater up</p> <p>9 about having to have military orders, no.</p> <p>10 Q. Okay. So backing Prater up</p> <p>11 about orders?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. You've indicated in</p> <p>14 paragraph nine of your complaint in</p> <p>15 subparagraph B, that Prater told you you</p> <p>16 couldn't miss work to attend Guard training?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Was that on one occasion or</p> <p>19 multiple occasions?</p> <p>20 A. That was on multiple</p> <p>21 occasions.</p> <p>22 Q. Okay. And do you remember</p> <p>23 specifically any of those particular</p>
<p style="text-align: right;">Page 146</p> <p>1 A. No. But like I said, that</p> <p>2 doesn't change the factor or dismiss the</p> <p>3 fact that they let him tell me I had to have</p> <p>4 military orders or I was getting wrote up.</p> <p>5 Q. All right. And understand,</p> <p>6 I'm trying to figure out what the evidence</p> <p>7 is, I'm trying to figure out what people</p> <p>8 said and what you know.</p> <p>9 A. Uh-huh.</p> <p>10 Q. So, I want to figure out who</p> <p>11 said what.</p> <p>12 A. All right.</p> <p>13 Q. Can you think of anybody else,</p> <p>14 other than Applegate or Prater, that ever</p> <p>15 said anything or did anything to you that</p> <p>16 was harassing or demeaning in any way with</p> <p>17 respect to your uniformed service?</p> <p>18 A. No. I never had a problem</p> <p>19 with anyone else about it.</p> <p>20 Q. Okay. And with respect to</p> <p>21 Applegate, I just want to make sure I</p> <p>22 understand exactly what it is he said and</p> <p>23 did. Am I correct that he made a comment</p>	<p style="text-align: right;">Page 148</p> <p>1 occasions?</p> <p>2 A. Well, I mean, sometimes he'd</p> <p>3 just walk up and say, hey, you've got to</p> <p>4 have orders this weekend or it's a write-up,</p> <p>5 and sometimes he'd say it in front of</p> <p>6 everybody.</p> <p>7 Q. Did he ever write you up for</p> <p>8 not having orders?</p> <p>9 A. No, sir.</p> <p>10 Q. Did anybody ever write you up</p> <p>11 for anything related to your military</p> <p>12 service?</p> <p>13 A. Not that I know of. I don't</p> <p>14 know. I never signed anything.</p> <p>15 Q. Okay. And you were never told</p> <p>16 that you were being written up after the</p> <p>17 fact?</p> <p>18 A. After the fact, no, sir. He</p> <p>19 just still kept coming up harassing me</p> <p>20 saying where's your orders, where's your</p> <p>21 orders.</p> <p>22 Q. Did you ever not attend any</p> <p>23 Guard duty because of --</p>

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<p style="text-align: right;">Page 149</p> <p>1 A. Because of work?</p> <p>2 Q. Because of Greg Prater or</p> <p>3 work?</p> <p>4 A. I don't know. I'd have to go</p> <p>5 back and look at my LES's and see.</p> <p>6 Q. Let me ask you this: Do you</p> <p>7 remember ever skipping any Guard duty on a</p> <p>8 weekend, or a week-long duty, or any sort of</p> <p>9 training because of your job at Hyundai?</p> <p>10 A. I don't know. I may have.</p> <p>11 Q. But you don't remember it?</p> <p>12 A. I may have. I don't know.</p> <p>13 Q. Do you remember it?</p> <p>14 A. I said I don't know.</p> <p>15 Q. Okay. And I assume you</p> <p>16 haven't provided your attorneys with any</p> <p>17 information to suggest you ever missed any</p> <p>18 Guard duty because of your work at Hyundai?</p> <p>19 A. Like I said, I can go back and</p> <p>20 look at my LES's and see.</p> <p>21 Q. All right. Let me ask you</p> <p>22 this: In paragraph 9-E of your complaint it</p> <p>23 says: Prater attempted to force Dees'</p>	<p style="text-align: right;">Page 151</p> <p>1 Shane said out of his own mouth that that's</p> <p>2 what Prater had said and he made the</p> <p>3 statement -- he wrote a statement saying</p> <p>4 that.</p> <p>5 Q. Okay. Who from team relations</p> <p>6 were they with?</p> <p>7 A. Will Ware.</p> <p>8 Q. Were there any other instances</p> <p>9 that fall within what you've described in</p> <p>10 paragraph 9-E?</p> <p>11 A. Yeah. One other time that I</p> <p>12 had a breakdown, Prater tried to get Shane</p> <p>13 to say that I said, heck with the breakdown,</p> <p>14 let's just go to lunch. And I never stated</p> <p>15 that. That was Shane, myself, and Drake</p> <p>16 Barefoot there. And Drake was the one that</p> <p>17 made the comment, but Prater wouldn't talk</p> <p>18 to Drake. And I asked him what happened, he</p> <p>19 called Shane in once again trying to get</p> <p>20 Shane to say I had caused the breakdown and</p> <p>21 just walked off and left it, when Drake had</p> <p>22 to run him down that I'm the one that stated</p> <p>23 it --</p>
<p style="text-align: right;">Page 150</p> <p>1 coworkers to say that Dees had violated</p> <p>2 Hyundai's policies and procedures when</p> <p>3 Prater knew it was not true.</p> <p>4 Do you have any idea from a</p> <p>5 factual perspective what that means?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Tell me about that.</p> <p>8 A. About a month before I was</p> <p>9 fired he tried to get one of my coworkers to</p> <p>10 say that I was creating a hostile work</p> <p>11 environment.</p> <p>12 Q. Who did he say that to?</p> <p>13 A. Shane Archer.</p> <p>14 Q. What did he say to Shane?</p> <p>15 A. He wanted Shane to say -- He</p> <p>16 called Shane in the office with team</p> <p>17 relations and wanted Shane to specifically</p> <p>18 say that Leon was creating a hostile work</p> <p>19 environment.</p> <p>20 Q. You think he called Shane into</p> <p>21 a meeting with team relations?</p> <p>22 A. We all saw Shane go in the</p> <p>23 office with him and team relations. And</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. That you stated what?</p> <p>2 A. That I didn't, that Drake</p> <p>3 stated it.</p> <p>4 Q. Did you walk off the</p> <p>5 breakdown?</p> <p>6 A. No.</p> <p>7 Q. You did not?</p> <p>8 A. No. We took our lunch shifts</p> <p>9 -- Half the shift come in an hour early and</p> <p>10 other shift came in an hour late. We split</p> <p>11 our lunch breaks up. We had a breakdown in</p> <p>12 my section. The SOP asked -- that I was</p> <p>13 told to stay in is where they supposedly</p> <p>14 caught me sleeping. It's out in open view</p> <p>15 of everybody. And I was working on it, we</p> <p>16 had worked fifteen minutes over into our</p> <p>17 lunch break, and myself and Drake was</p> <p>18 working on it. I handed my radio to Shane,</p> <p>19 said call Kevin and get him to get the other</p> <p>20 ones out here, they're fifteen minutes into</p> <p>21 our lunch break, they're over theirs, tell</p> <p>22 them to come finish up. Shane went up and</p> <p>23 took the radio, went downstairs, he found</p>

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<p style="text-align: right;">Page 153</p> <p>1 Kevin told him what was going on, me and 2 Drake was still working on the breakdown. 3 Kevin came up, everything was explained to 4 him, told him what he had to do to fix it. 5 Drake said, heck with this, he used a 6 four-letter word, said, we're going to 7 lunch. Kevin said, well, I don't know how 8 to fix this. Drake says, you need to step 9 up and do your job. We told you how to fix 10 it, we're going to lunch. And the other 11 shift came out, took the breakdown. 12 When I came in the next night, 13 the same thing, Jim Brookshire and Prater 14 and them was in there telling me that I had 15 walked off of a breakdown and left the line 16 down. 17 Q. You said Brookshire was there? 18 A. Yes, sir. Trying to chew me 19 out for having a breakdown. Drake seen what 20 was going on, come in and to talk to them. 21 They said, no, we got this. He called Shane 22 in and tried to get Shane to say Leon said 23 such and such. Drake come and said this is</p>	<p style="text-align: right;">Page 155</p> <p>1 are saying. 2 Q. Whose statements? 3 A. Will Ware's and Prater's. 4 Q. Okay. 5 A. That's what he admitted to the 6 coworkers after I was fired. This Wendy 7 Warner totally bypassed all their own 8 policies in their handbook for termination, 9 their termination procedure, and fired me 10 right off the bat, off someone else's word. 11 That's what I'm saying, everybody knew about 12 the problem, and everybody supported him on 13 every decision he made; they supported 14 Applegate, human resources. 15 Q. Can you think of any other 16 instances that fit within paragraph 9-E of 17 your complaint? 18 A. I don't know. You keep 19 asking, there may be something. I don't 20 know. 21 Q. That's why I keep asking. 22 A. I don't know. Maybe. I don't 23 remember anything else right now at this</p>
<p style="text-align: right;">Page 154</p> <p>1 what happened, I'm the one that said what 2 you're trying to blame on him, this is how 3 it happened. They didn't want to talk to 4 Drake, he had to force them to listen. 5 Q. Were you written up or 6 anything for that? 7 A. No. I would have been if it 8 hadn't been for Drake. 9 Q. Was there another incident 10 where you walked off your job to your 11 recollection? 12 A. I don't believe so. After 13 reading all the stuff from Hyundai, 14 apparently they had a lot to say about me. 15 Q. But to your knowledge, this 16 incident that you're talking about, was it 17 investigated by team relations? 18 A. No. It was investigated by 19 Prater, the same one who investigated me for 20 supposedly sleeping, and firing me. He did 21 the sole investigation. 22 Q. You think Prater did? 23 A. That's what their statements</p>	<p style="text-align: right;">Page 156</p> <p>1 moment. 2 Q. Okay. Paragraph 9-F of the 3 complaint talks about having to clean out 4 the pit. 5 A. Yes, sir. 6 Q. All right. Let's talk a 7 little bit about the pit. Is there just one 8 pit at the plant? 9 A. Yes, sir. It's all one big 10 system. 11 Q. I mean, is there one pit or 12 two pits or three? 13 A. There was one -- After I 14 answer this, we've got to go to lunch. My 15 stomach is growling. 16 There's a pit under each 17 press. 18 Q. All right. So there's more 19 than one pit? 20 A. There's two presses and one 21 pit under the -- what's that other -- I 22 can't remember what that other press is 23 called, where it all -- scrap comes from two</p>

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<p style="text-align: right;">Page 157</p> <p>1 pits on a metal conveyor and goes down to 2 that where it's all crushed into one bale 3 and sent out and sold for scrap. 4 Q. Okay. 5 A. But I was always sent under 6 press one or two pit to clean up. 7 Q. Okay. 8 A. It's a dangerous process. 9 Because when you get down there, you have no 10 communication with nobody. If anything 11 happens to you, you're there until somebody 12 decides to come looking for you. 13 Q. Let me ask you this: What 14 evidence do you have to suggest that anybody 15 at Hyundai assigned you to clean the pit to 16 try to get you to quit your job? 17 A. Because after all this stuff 18 come up and my unit sent the letter, it 19 wasn't but a few weeks after that, I was 20 getting sent down to the pit to clean it, at 21 least once, two or three times a week, 22 sometimes three or four times a week. 23 Wasn't even our responsibility, production</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. So am I right, that the pit, 2 it wasn't like something that was cleaned on 3 schedule? 4 A. No, sir. Well, it was 5 supposed to be but, no, sir. 6 Q. Okay. Wasn't like there was a 7 schedule posted on the wall for who was 8 supposed to clean it when and that kind of 9 stuff? 10 A. No, sir. That was a 11 production thing. But it didn't turn out to 12 be a production thing. 13 Q. How many times do you think 14 you had to clean the pit? 15 A. God, I don't know. Like I 16 said, several weeks, at least two, three, 17 four times a week. 18 Q. How often -- 19 A. Huh? 20 Q. How often would your coworkers 21 in maintenance clean it? 22 A. Nowhere near -- Mark Hanks 23 cleaned it once I think.</p>
<p style="text-align: right;">Page 158</p> <p>1 was supposed to clean the pit. 2 Q. Production was supposed to 3 clean the pit? 4 A. Yes, sir. Like I said, we had 5 radios, but when you get to the pit, you 6 have no communication. 7 Q. Why -- I mean, if somebody 8 from production is supposed to clean the 9 pit, did anybody from maintenance ever clean 10 the pit before you? 11 A. Yes, sir. 12 Q. All right. 13 A. When they would make Prater 14 mad. 15 Q. Okay. 16 A. Or if they made Kevin mad or 17 if they made Jim Brookshire mad or if they 18 made Craig Stapley mad. 19 Q. Those are production guys, 20 Brookshire and Stapley? 21 A. Doesn't mean nothing though. 22 If they told you to go clean the pit, you 23 had to go clean the pit.</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Okay. 2 A. Other than that, I don't 3 remember anybody being singled out to go 4 clean it. 5 Q. Did anybody clean it as often 6 as you did? 7 A. No, sir. 8 Q. Did anybody clean it more than 9 you did? 10 A. No, sir. 11 Q. And other than Mark Hanks 12 cleaning it once, can you think of anybody 13 else who had to clean it one or more times? 14 A. Not individually. Sometimes 15 he'd send a whole shift down there once 16 every three or four months to clean it. 17 Q. And is it your testimony the 18 pit got cleaned based purely on somebody 19 like Hughes or Prater or Brookshire or 20 Stapley telling you or your coworkers to go 21 do it? 22 A. Yes, sir. 23 Q. All right. Let's say if you</p>

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<p style="text-align: right;">Page 161</p> <p>1 were working on -- is the -- Are the presses 2 numbered one and two? 3 A. Yes, sir. 4 Q. Would your maintenance duties 5 be assigned to either press one or press two 6 on a given shift? 7 A. There was maintenance 8 personnel on my shift assigned to those 9 presses. That wasn't even my area of 10 responsibility. 11 Q. Okay. What was your area of 12 responsibility? 13 A. SOPS. 14 Q. Okay. 15 A. When we came in, we was told 16 to get our tool bags, get the brief from the 17 off-going shift, and go to our areas of 18 responsibility. Mark Hanks had to stay on 19 press one, Darrel Gray press two, Drake 20 Barefoot on that other stamping press, I 21 can't remember what it was called, Chris 22 Weihe had to handle ASRS, and I had the 23 SOPS, and Shane was a floater.</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. And that's five days a week? 2 A. Sometimes it's seven days a 3 week. 4 Q. Sometimes seven days a week. 5 A. We'd work a weekend off, 6 weekend on. Sometimes we might get a Sunday 7 off. I mean, I never cleaned it seven days 8 in a row, no. 9 Q. Okay. 10 A. Even after I complained about 11 it. 12 Q. Did you clean it five days in 13 a row? 14 A. Fricken Applegate told me 15 don't worry about it, it all pays the same. 16 Q. Did you ever clean it five 17 days in a row? 18 A. I may have. I don't know. I 19 mean, I cleaned it so many times so much, I 20 don't know. 21 Q. Is it your testimony that you 22 cleaned it significantly more than any of 23 your coworkers?</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. Okay. 2 A. And I ended up running the 3 SOPS for the production people; I went above 4 and beyond my spectrum of duty. I was 5 supposed to be there for breakdowns. If it 6 broke down, I was supposed to fix it. They 7 was only allowed to run so many parts, like 8 so many Sonata right side outers, they get 9 to running good and they'd run way over 10 their quota. I'd have to go up there and 11 operate the system for them so they could do 12 that. I became instead of -- basically a 13 production worker. And if I hadn't have 14 done it, they wouldn't have ran. So it 15 ain't like I was a slouch. I could have 16 said, no, that's not my scope of duty. I 17 helped out. You can ask production, I even 18 went back there sometimes and I'd help them 19 catch panels if they was getting in a bind. 20 Q. In your complaint it says you 21 cleaned the pit almost daily some weeks; is 22 that true? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 164</p> <p>1 A. Yes, sir. And they'll tell 2 you that. 3 Q. Okay. 4 A. As they told -- I believe -- I 5 don't know, you'd have to ask the lawyer who 6 interviewed the three. 7 Q. I've talked to him. 8 Anyway, let me ask you this, 9 in paragraph ten it says: Applegate wrote 10 up about each and every action by Prater and 11 Hughes. He stood behind each and every 12 decision they made in running the stamping 13 department and refusing to act on or even 14 investigate complaints to Applegate about 15 Prater and Hughes. 16 We've talked a lot about what 17 Applegate said in terms of it's Prater's 18 department and he runs it. Is there more to 19 that story than you and I have talked about 20 so far? 21 A. No. Like I said, even if I 22 complained about cleaning the pit all the 23 time, and Applegate asked me, said, what's</p>

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<p style="text-align: right;">Page 165</p> <p>1 it to you, it all pays the same? I said, 2 well, it seems funny after this letter came, 3 all of a sudden I'm cleaning the pit all the 4 time. He said, well, that letter don't have 5 nothing to do with this, it's just a 6 maintenance thing. I said, well, we don't 7 normally clean it. Well, it all pays the 8 same, don't worry about it. 9 Q. Did you talk to him about the 10 fact that it's typically production that 11 cleans the pit but they're making 12 maintenance people clean it? 13 A. Yes, sir. 14 Q. And he said he's okay with 15 that -- 16 A. Don't worry about it, it all 17 pays the same. 18 Q. In paragraph eleven of your 19 complaint you say that the harassment -- 20 A. Are you ready for chow? 21 Q. Not yet. 22 I mean, if you're ready to go, 23 we'll go.</p>	<p style="text-align: right;">Page 167</p> <p>1 the exhibit that came up, was identified 2 initially by Mr. Dees, which had not been 3 previously identified in Mr. Dees' discovery 4 responses by Mr. Dees or his counsel. Once 5 it was identified by Mr. Dees during his 6 deposition, we were able to contact the 7 Hyundai plant and have it faxed to the court 8 reporter's office. We've now marked it as 9 Defendant's Exhibit 4 and provided a copy to 10 Mr. Dees' lawyers, who had not identified it 11 previously. 12 MR. KILBORN: I also note for 13 the Record that the letter that Sergeant 14 Barnes wrote has not been produced, which is 15 a key letter in this case. And we've asked 16 that it be produced, that a search be made 17 for it. That's a letter identified in 18 Franklin D. Barnes Dees 00002 dated March 19 26, 2007. 20 MR. JOHNSON: Is that all? 21 MR. KILBORN: That's it. Go 22 ahead. 23 Q. Mr. Dees, we're going back on</p>
<p style="text-align: right;">Page 166</p> <p>1 A. I'm hungry. 2 MR. JOHNSON: Y'all ready to 3 take a break? 4 (Recess taken.) 5 MR. KILBORN: I want to mark 6 this as -- 7 MR. JOHNSON: It's marked as 8 Exhibit 4. 9 (Whereupon, Defendant's 10 Exhibit No. 4 was marked 11 for identification.) 12 MR. KILBORN: Defendant's 13 Exhibit 4 was just produced about ten 14 minutes after one, during Leon Dees's 15 deposition; it should have been produced 16 before. It's obviously on the subject of 17 Guard duty; it's obviously on the subject of 18 human resources; and on the subject of Leon 19 Dees. And I've asked -- I've told counsel I 20 want to redepose Wendy Warren on the subject 21 matter of this e-mail. 22 MR. JOHNSON: Just for the 23 Record, with respect to Exhibit 4, this was</p>	<p style="text-align: right;">Page 168</p> <p>1 the Record. I've got a couple of questions 2 to ask you. 3 We've now marked an exhibit 4 that you mentioned previously in your 5 deposition, that we've gone back and gotten, 6 we've marked as Exhibit Number 4. I know 7 that you and your lawyers have had an 8 opportunity to review that exhibit; is that 9 accurate? 10 A. Yes, sir. 11 Q. Okay. And is that, in fact, 12 the e-mail that you testified to prior to 13 our lunch break? 14 A. This is it. 15 Q. Okay. 16 A. 6 February '07. I asked 17 Mr. Kimball for a meeting, because, like I 18 said, both times I even had to file the 19 complaint through my unit. And after 20 positive results, meeting the first time, we 21 went there, Prater told us we couldn't talk 22 to HR. My unit stayed abreast of the 23 meeting, and it would die back down for a</p>

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<p style="text-align: right;">Page 169</p> <p>1 week, and then everything else would kick 2 back up. Nothing changed over all. I'm 3 currently working night shift, and we would 4 greatly appreciate a meeting at your 5 convenience. And a week or two later I was 6 fired. 7 Q. Now, if I could just look at 8 that. Again, this e-mail was sent on 9 February 6th of '07, does that sound right 10 to you? 11 A. Yes, sir. 12 Q. At that time, do you know 13 whether Greg Kimball was actively employed 14 or on leave from the plant? 15 A. No one had told us he wasn't 16 there. Like I said, I worked night shift. 17 Q. Did you know him personally? 18 A. Did I know him personally? 19 You mean away from the plant? 20 Q. No. I mean, did you know him? 21 You'd know him if he walked into the room 22 and talked to him? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 171</p> <p>1 A. Yes, sir. 2 Q. Was that a meeting -- Was that 3 the year before you got terminated in that 4 fall period that you testified to? 5 A. Yes, sir. 6 Q. Okay. And where did that 7 meeting take place? 8 A. In Greg Kimball's office. 9 Q. Okay. And am I right that 10 neither you nor Greg Kimball produced 11 anything in writing after that meeting? 12 A. No, sir. 13 Q. And one of the things that it 14 says here on Defendant's Exhibit Number 4, 15 you'd indicate issues that have arisen on my 16 shift between Greg Prater, Kevin Hughes, and 17 yourself. What was the issue with Kevin 18 Hughes? 19 A. Like I stated earlier, Kevin 20 had a history of jumping on employees. 21 And -- 22 Q. And when you say jumping on 23 employees, was that having to do with</p>
<p style="text-align: right;">Page 170</p> <p>1 Q. Had you talked to him before? 2 A. Yes, sir. 3 Q. Had you talked to him 4 previously about any issues you may have had 5 with Greg Prater? 6 A. It wasn't Prater specifically. 7 Like I said before, he was the very first 8 person I talked to when I went to HR. 9 Q. Okay. But you didn't talk to 10 him about Prater specifically? 11 A. Well, about Prater and 12 Applegate and having a problem with my Guard 13 duty, yes, sir, I did. 14 Q. Okay. And what -- And I'm 15 just trying to think back to what we talked 16 about earlier this morning. I want to make 17 sure I'm right. That was what you had 18 testified to earlier, the year before you 19 got fired in the -- I think you testified in 20 the fall? 21 A. Do what now? 22 Q. The meeting -- That first 23 meeting you had with Greg Kimball.</p>	<p style="text-align: right;">Page 172</p> <p>1 military duty or just his style of 2 management? 3 A. His style of management. I 4 mean, he had -- he had jumped on two or 5 three other employees, one of them twice. 6 He'd get up in their face and holler at them 7 and bow up on them and intimidate them. And 8 he did the same thing to me, and I asked 9 him, I said: Are you bowing up on me? And 10 he made some comment, and I turned around 11 and I left. 12 Q. Now, did that have anything to 13 do with your military service or your 14 reserve duties or anything like that? 15 A. That particular incident? I 16 -- I don't know. After the letter came in, 17 and I started having all these problems is 18 when Kevin started -- I mean, that's when he 19 started birddogging me. 20 Q. When who started birddogging 21 you? 22 A. Kevin Hughes. 23 Q. When did that start?</p>

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<p style="text-align: right;">Page 173</p> <p>1 A. After -- Like I said, after my 2 letter from the unit came in. 3 Q. Okay. That's the letter from 4 Sergeant Barnes? 5 A. Yes, sir. 6 Q. Do you remember when that 7 letter came in? 8 A. As I stated earlier, no, sir. 9 Q. Do you recall who it was sent 10 to specifically? 11 A. Yes, sir. Like I stated 12 before, Greg Kimball. 13 Q. Okay. Did you ever talk to 14 Greg Kimball about whether or not he'd 15 actually gotten that letter? 16 A. No, sir, I did not. 17 Q. Do you have any evidence that 18 Greg Kimball or anybody else in Hyundai 19 management received the letter? 20 A. I said just John Applegate 21 saying: Don't worry about that letter, 22 we've seen it, something to that effect. I 23 don't remember exactly what his words were,</p>	<p style="text-align: right;">Page 175</p> <p>1 A. No, sir. The two separate 2 occasions was what it says, it was two 3 separate occasions. 4 Q. But I'm trying to figure out 5 when those two separate occasions were and 6 who were they with? 7 A. What do you mean? 8 Q. On February 6th you basically 9 say you had two separate occasions that you 10 had discussions with human resources; right? 11 A. Yes, sir. 12 Q. Okay. I want -- I'm just 13 trying to figure out if we can pin down when 14 those were and who you talked to. 15 A. It's like I stated earlier 16 this morning, I don't know the exact dates. 17 That was over a year ago. No, I don't. I 18 don't know specific dates, times, no, sir. 19 Q. Do you recall who they were 20 with? 21 A. Like I stated this morning, 22 the first meeting was with Greg Kimball -- 23 Q. Okay. That's one.</p>
<p style="text-align: right;">Page 174</p> <p>1 but, yeah, he admitted the letter was there. 2 Q. Do you remember when he said 3 that? 4 A. I think it was the second 5 meeting I had with him. I don't remember. 6 Q. Second meeting with Applegate? 7 A. Yeah. I mean, I don't know to 8 be honest. I can't say either way. 9 Q. How many meetings did you have 10 with Applegate? 11 A. I don't know. Two, three. 12 Whatever I said this morning. 13 Q. Okay. In your letter to Greg 14 Kimball that we've marked as Exhibit 4 you 15 say: I have talked to human resources on 16 two separate occasions regarding Greg Prater 17 and also filed a complaint on him through my 18 National Guard unit. 19 A. Yes, sir. 20 Q. Were the two separate 21 occasions the one time that you talked to 22 Greg Kimball and then when you talked to 23 Keisha?</p>	<p style="text-align: right;">Page 176</p> <p>1 A. -- in HR, and the last two I 2 believe was with Keisha. 3 Q. Okay. So other than Greg 4 Kimball and Keisha, you don't recall having 5 discussions with anybody in HR? 6 A. No, sir. 7 Q. No, sir, I'm wrong or no, sir, 8 you didn't have meetings with anyone else? 9 A. No, sir, I don't recall having 10 meetings with anyone else in HR. 11 Q. And did Keisha ever say 12 anything to you that in any way demeaned or 13 insulted your prior uniformed service? 14 A. No, sir. 15 Q. Do you have any reason to 16 think that Keisha in any way influenced the 17 decision to terminate your employment? 18 A. I have no idea who had any -- 19 I don't know. You're standing at work, 20 somebody comes up and tells you you're 21 fired, I mean -- 22 Q. Let me ask you this: Do you 23 have any information to suggest who was</p>

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<p style="text-align: right;">Page 177</p> <p>1 involved in the decision to terminate your 2 employment? 3 A. Rephrase. 4 Q. Do you have any knowledge as 5 to who was involved in the decision to 6 terminate your employment? 7 A. Nope. I mean -- No. 8 Q. Do you know whether Greg 9 Prater was involved? 10 A. Well, I read statements that 11 he wrote. 12 Q. Other than the statements that 13 he wrote -- 14 A. And he told the coworkers that 15 he did the investigation and it was his 16 decision. 17 Q. Okay. Who did he say that to? 18 A. My shift. But, they also said 19 that -- I believe it was that -- I don't 20 know, how was it phrased? 21 He didn't make the actual -- 22 He can only make a recommendation. The 23 actual decision had to come from HR.</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. What routine? 2 A. Of getting harassed, are you 3 going to duty this weekend? Where is your 4 orders? Are you coming back Monday? Do you 5 have my orders? You're going to get wrote 6 up if you miss work. 7 Q. Did Greg Prater ever do 8 anything other than demand to see orders or 9 suggest that he was going to write you up if 10 you missed work? 11 A. As in? 12 Q. You tell me. I just want to 13 know what he did. 14 A. I mean, other than hounding me 15 about my orders, harassing me about my duty, 16 HR and Applegate and basically team 17 relations and everyone backing him up, that 18 was pretty much enough. 19 Q. Okay. So would it be fair to 20 state that that's all that Greg Prater did 21 or that Applegate or HR did with respect to 22 your service? 23 A. Well, yeah, I reckon.</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. Okay. And do you know who in 2 HR was involved in that decision-making 3 process? 4 A. No, sir, I do not. 5 Q. Also on Exhibit 4 it indicates 6 here that -- or you say: There have been 7 positive results from both meetings and once 8 again I am seeking your help. 9 What were the positive results 10 that came from -- 11 A. Well, the first time Prater 12 said: Y'all can't go to HR, that's not in 13 your chain of command. 14 Q. Okay. 15 A. And I -- Everything with me 16 was military term acronyms, because that's 17 all I've ever known, that's how I live my 18 life. And HR jumped all over him. Like I 19 said, that was only for their benefit. 20 Said, yeah, you can talk to us any time you 21 want. And everything calmed down for a few 22 days or a week, but then same old routine 23 kicked in.</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Okay. Now, let's look at 2 paragraph twelve of your complaint. And I'm 3 going to mark -- 4 MR. SPORT: Matt, do you have 5 another copy of that? 6 MR. JOHNSON: Yeah. I'm 7 getting it. Hang on. 8 Q. I'm going to mark as Exhibit 5 9 a fax cover letter and a letter -- 10 (Off-the-Record discussion 11 was held.) 12 (Whereupon, Defendant's 13 Exhibit No. 5 was marked 14 for identification.) 15 Q. All right. Mr. Dees, in 16 paragraph twelve of your complaint it 17 references an October 23, 2006, letter from 18 Sergeant Franklin Barnes -- 19 A. I said on or about October 23. 20 Q. On or about October 23, 2006, 21 Franklin Barnes, of Dees' Guard unit wrote a 22 letter of instruction to the human resources 23 department at Hyundai. And if you look at</p>

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<p style="text-align: right;">Page 181</p> <p>1 what we've marked as Exhibit 5, that is</p> <p>2 apparently a letter from Sergeant Barnes --</p> <p>3 it says it's a memorandum for Record.</p> <p>4 Are you aware of anything else</p> <p>5 that Sergeant Barnes produced that was</p> <p>6 produced to Hyundai?</p> <p>7 A. No, sir.</p> <p>8 Q. And let me -- I won't --</p> <p>9 A. This is not the actual letter</p> <p>10 because he didn't keep a copy of the actual</p> <p>11 letter. This is in reference to what he had</p> <p>12 stated -- basically stated.</p> <p>13 Q. Okay. And let me make sure</p> <p>14 and --</p> <p>15 A. On or about 23 October, that's</p> <p>16 a military term, if you're not sure of the</p> <p>17 date, exact date, that's what we use.</p> <p>18 MR. JOHNSON: Okay. And let</p> <p>19 me make sure, Mr. Kilborn or Mr. Sport,</p> <p>20 we've definitely got one and two here, and I</p> <p>21 don't want to -- if I'm overlooking or</p> <p>22 misunderstanding, the 10/23 letter --</p> <p>23 MR. SPORT: We have not</p>	<p style="text-align: right;">Page 183</p> <p>1 department?</p> <p>2 A. Yes, sir. It's not the exact</p> <p>3 same letter, no. Sergeant Barnes didn't</p> <p>4 keep a copy of the letter that was sent.</p> <p>5 Q. Did he send a copy to you?</p> <p>6 A. No, sir. I didn't ask him to.</p> <p>7 Q. Well, regardless of what you</p> <p>8 asked him to do, did he send one?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. Do you know if he sent</p> <p>11 one to anybody else?</p> <p>12 A. No, sir.</p> <p>13 Q. And you -- Do you know if -- I</p> <p>14 want to make sure I understand. Did he keep</p> <p>15 a copy and lost it or did he not keep a copy</p> <p>16 to your knowledge?</p> <p>17 A. To my knowledge, he did not</p> <p>18 keep a copy.</p> <p>19 Q. Okay.</p> <p>20 A. And it not being an official</p> <p>21 government document, he wasn't required to</p> <p>22 keep a copy.</p> <p>23 Q. Okay. Then is it your</p>
<p style="text-align: right;">Page 182</p> <p>1 produced it because we don't have a copy of</p> <p>2 it.</p> <p>3 MR. JOHNSON: Okay.</p> <p>4 MR. SPORT: It's our</p> <p>5 understanding that Mr. Barnes cannot locate</p> <p>6 a copy of it. Based on his notes, and it</p> <p>7 would roughly correspond, I believe, to</p> <p>8 Mr. Dees' drill date of that month, that</p> <p>9 that's when he wrote the letter. And based</p> <p>10 on that, we're requesting that letter from</p> <p>11 human resources.</p> <p>12 MR. JOHNSON: All right.</p> <p>13 So --</p> <p>14 MR. SPORT: Is that what you</p> <p>15 were asking?</p> <p>16 MR. JOHNSON: I think so.</p> <p>17 Thank you.</p> <p>18 MR. SPORT: Okay.</p> <p>19 Q. So, Mr. Dees, it's at least my</p> <p>20 understanding that what we've got here as</p> <p>21 Exhibit 5, that's different from the letter</p> <p>22 we were talking about earlier that was sent</p> <p>23 by Mr. Barnes to the human resources</p>	<p style="text-align: right;">Page 184</p> <p>1 testimony it wasn't an official government</p> <p>2 document?</p> <p>3 A. It was a letter -- When you</p> <p>4 have a problem, you go to your unit.</p> <p>5 Q. Okay. And he was actually</p> <p>6 your subordinate in the unit; correct?</p> <p>7 A. Yes, sir. But he's the full</p> <p>8 time AGR person, so it's his job to take</p> <p>9 care of stuff like that.</p> <p>10 Q. Okay. Did you ask anyone who</p> <p>11 you were subordinate to to write you a</p> <p>12 letter like that?</p> <p>13 A. No, sir, I did not. I went to</p> <p>14 the unit, I talked to Sergeant Barnes.</p> <p>15 Sergeant Barnes called Sergeant Richberg my</p> <p>16 superior. Sergeant Richberg was the senior</p> <p>17 man, he's retired now, that was off Sergeant</p> <p>18 Richberg's recommendations.</p> <p>19 Q. Okay. Tell me Sergeant</p> <p>20 Richberg's full name?</p> <p>21 A. Wendell Richberg.</p> <p>22 Q. And do you know where he</p> <p>23 lives?</p>

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<p style="text-align: right;">Page 185</p> <p>1 A. Anniston.</p> <p>2 Q. Anniston. Have you spoken to</p> <p>3 him since this lawsuit was filed?</p> <p>4 A. Friday night.</p> <p>5 Q. Okay. Did y'all talk about</p> <p>6 this lawsuit?</p> <p>7 A. No, sir.</p> <p>8 Q. Did you talk about your</p> <p>9 deposition at all?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. What about Sergeant</p> <p>12 Barnes, do you still talk to him?</p> <p>13 A. Every month at Guard. He</p> <p>14 works for me.</p> <p>15 Q. At Guard duty. Okay. And,</p> <p>16 again, going back to Exhibit 5 that we've</p> <p>17 marked today, is the second page of that a</p> <p>18 memo that you're familiar with?</p> <p>19 A. The actual letter?</p> <p>20 Q. Yes.</p> <p>21 A. Yes, sir.</p> <p>22 Q. You're familiar with that?</p> <p>23 A. I read it once.</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. He retyped this memo?</p> <p>2 A. I'm just assuming. Like I</p> <p>3 said, you'll have to ask Sergeant Barnes</p> <p>4 this information.</p> <p>5 Q. Okay.</p> <p>6 A. I'm not going to sit here and</p> <p>7 answer for him because I don't know.</p> <p>8 Q. I want to know what you know.</p> <p>9 Do you know whether or not this is a retyped</p> <p>10 memorandum or something he'd done --</p> <p>11 A. No, sir, I do not know. Like</p> <p>12 I stated, I do not know. You'll have to ask</p> <p>13 Sergeant Barnes, and he'll be glad to talk</p> <p>14 to you.</p> <p>15 Q. Do you know where this copy</p> <p>16 came from?</p> <p>17 A. Sergeant Barnes. It's got his</p> <p>18 signature on it.</p> <p>19 Q. So I'm assuming Sergeant</p> <p>20 Barnes kept a copy of this one?</p> <p>21 A. Apparently so. I don't know</p> <p>22 that for sure either. I'm not going to say</p> <p>23 either way.</p>
<p style="text-align: right;">Page 186</p> <p>1 Q. Did you read it before</p> <p>2 Sergeant Barnes sent it?</p> <p>3 A. No, sir, I do not.</p> <p>4 Q. Do you know if Sergeant Barnes</p> <p>5 sent it to anybody?</p> <p>6 A. Sergeant Barnes told me that</p> <p>7 he sent it to Greg Kimball.</p> <p>8 Q. He said he sent it to Greg</p> <p>9 Kimball?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did he indicate he had sent it</p> <p>12 to anybody other than Greg Kimball?</p> <p>13 A. No, sir.</p> <p>14 Q. Did he send a copy to you?</p> <p>15 A. No, sir.</p> <p>16 Q. I assume he saved a copy of</p> <p>17 this?</p> <p>18 A. No, sir.</p> <p>19 Q. Do you know where this -- this</p> <p>20 copy came from?</p> <p>21 A. Sergeant Barnes retyped it.</p> <p>22 You'll have to ask Sergeant Barnes this</p> <p>23 info. This, I do not know.</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. And not a copy of the other</p> <p>2 one?</p> <p>3 A. Well, the other one shouldn't</p> <p>4 have been a problem. He has to do it for</p> <p>5 civilian law enforcement officers. I mean,</p> <p>6 he didn't think nothing about it.</p> <p>7 Q. Did you ask him to prepare</p> <p>8 this Exhibit Number 5?</p> <p>9 A. I asked him if he had a copy</p> <p>10 of the letter he sent. He said he would</p> <p>11 check and see. And he said he did not have</p> <p>12 a copy. I said, look, what did you write?</p> <p>13 I said I need a letter about what you said,</p> <p>14 and that's what he produced. Anything other</p> <p>15 than that, you'll have to ask Sergeant</p> <p>16 Barnes.</p> <p>17 Q. Okay. So from what you're</p> <p>18 telling me, either he told you he couldn't</p> <p>19 find one, and then he found it --</p> <p>20 A. No, sir. He did not find it.</p> <p>21 I never said he found it. I said he did not</p> <p>22 find it.</p> <p>23 Q. Okay. That's fine.</p>

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<p style="text-align: right;">Page 189</p> <p>1 To your knowledge, was this</p> <p>2 done on March 26th originally?</p> <p>3 A. I have no idea.</p> <p>4 Q. Okay. Do you have any idea</p> <p>5 when he initially prepared it?</p> <p>6 A. No, sir.</p> <p>7 Q. All right. And was -- The</p> <p>8 first page of Exhibit 5 is to Mrs. Dees, I</p> <p>9 assume that's your wife?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Was this faxed to some fax</p> <p>12 numbers of hers or at her office somewhere?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you ask Sergeant Barnes to</p> <p>15 send it to your wife?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And was it at her office?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Where does she work?</p> <p>20 A. Peachtree Bank in Maplesville,</p> <p>21 Alabama.</p> <p>22 Q. So to your knowledge, Sergeant</p> <p>23 Barnes sent this to her bank?</p>	<p style="text-align: right;">Page 191</p> <p>1 A. I don't know.</p> <p>2 Q. Okay. Do you know if Sergeant</p> <p>3 Barnes ever called Hyundai's HR department</p> <p>4 for any reason?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Okay. Had you provided him</p> <p>7 with Greg Kimball's name?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Did you provide him with Greg</p> <p>10 Kimball's address or fax number or anything</p> <p>11 like that?</p> <p>12 A. Address to the plant.</p> <p>13 Q. Just the plant address?</p> <p>14 A. Yes, sir. Attention Greg</p> <p>15 Kimball.</p> <p>16 Q. Okay. In paragraph thirteen</p> <p>17 of your complaint you say: After the letter</p> <p>18 from Sergeant Barnes was sent to Hyundai,</p> <p>19 the incidences of harassment outlined above</p> <p>20 escalated.</p> <p>21 Let me ask you that: Is that</p> <p>22 accurate?</p> <p>23 A. Yes, sir.</p>
<p style="text-align: right;">Page 190</p> <p>1 A. Yes, sir.</p> <p>2 Q. And did she bring it home to</p> <p>3 you?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And it looks like it was faxed</p> <p>6 on March 26th; is that accurate?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And do you recall whether that</p> <p>9 was when you got it or not?</p> <p>10 A. Yeah. She got it that day,</p> <p>11 she brought it home that evening, yes, sir.</p> <p>12 Q. All right. Had you talked to</p> <p>13 Sergeant Barnes that day?</p> <p>14 A. I don't know. I don't know.</p> <p>15 Q. Okay. Do you remember talking</p> <p>16 to Sergeant Barnes asking him to send you</p> <p>17 some sort of memorandum for the Record or</p> <p>18 something telling what he had done in the</p> <p>19 past?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did he fax this to you on the</p> <p>22 same day or did this take place at a later</p> <p>23 time?</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. How did they escalate?</p> <p>2 A. I mean, it went from every</p> <p>3 other day I was being called on the carpet.</p> <p>4 I mean --</p> <p>5 Q. Called on the carpet for what?</p> <p>6 A. Anything he could make up,</p> <p>7 they could make up, everything.</p> <p>8 Q. What would they make up?</p> <p>9 A. The daily reports, and I</p> <p>10 believe that was in there somewhere, where I</p> <p>11 didn't turn in my daily report where I</p> <p>12 actually filled it out but I worked over,</p> <p>13 and it was still in the book, I just didn't</p> <p>14 drop it off in the box. And I was being</p> <p>15 threatened on a write-up when there were</p> <p>16 several other team members on both shifts</p> <p>17 who hadn't turned in a daily report in over</p> <p>18 a month. That was just one example.</p> <p>19 Q. Well, during that period, were</p> <p>20 -- were you ever suspended for any reason?</p> <p>21 A. No, sir. They ignored their</p> <p>22 whole firing process. I was never written</p> <p>23 up, to my knowledge.</p>

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<p style="text-align: right;">Page 193</p> <p>1 Q. Okay.</p> <p>2 A. They went against their own</p> <p>3 program, their own handbook, their own</p> <p>4 system.</p> <p>5 Q. Okay. Just so I understand,</p> <p>6 how did they do that?</p> <p>7 A. Well, supposedly there's a</p> <p>8 system, a process, you have to go through to</p> <p>9 get fired. Several steps in between. I</p> <p>10 went from zero to fired.</p> <p>11 Q. So when you say they</p> <p>12 disregarded the steps, you're talking about</p> <p>13 your termination?</p> <p>14 A. Their own firing process.</p> <p>15 It's not my termination. That's their</p> <p>16 process that they came up with, that they</p> <p>17 said they would abide by that they threw out</p> <p>18 the window.</p> <p>19 Q. Okay. Also in paragraph</p> <p>20 thirteen you say that on or about February</p> <p>21 26, 2007, Prater got the stamping manager,</p> <p>22 Jim Brookshire to falsely accuse Dees of</p> <p>23 sleeping on the job.</p>	<p style="text-align: right;">Page 195</p> <p>1 Brookshire to make those allegations?</p> <p>2 A. Well, I mean -- I'm not sure</p> <p>3 how he -- what went on. I know I was</p> <p>4 standing up there in my area that I was</p> <p>5 supposed to be in, with one of my coworkers,</p> <p>6 who had left me standing out there in plain</p> <p>7 site on a wire mesh floor where everybody</p> <p>8 can see, not five minutes before I was</p> <p>9 accused of sleeping. And I read Will Ware's</p> <p>10 statements where Jim Brookshire said he</p> <p>11 never saw my eyes closed. And the next</p> <p>12 thing I know, I'm getting fired for sleeping</p> <p>13 on duty. If I sleep on duty, he's saying</p> <p>14 this ain't a military thing, he was always</p> <p>15 referring to military things, every time</p> <p>16 someone talked to me, they put it in a</p> <p>17 military perspective. If I didn't live my</p> <p>18 life in a military manner, why would they do</p> <p>19 that? If I sleep on duty on post, I die.</p> <p>20 That's not the most important thing. If I</p> <p>21 sleep on duty on post, my men die, that's</p> <p>22 the most important thing. I live my</p> <p>23 civilian life just like I do my military</p>
<p style="text-align: right;">Page 194</p> <p>1 A. February 26th was the day I</p> <p>2 was terminated. I believe, like you said,</p> <p>3 it was the 19th. I'm not sure, it was the</p> <p>4 week before that.</p> <p>5 Q. Okay. So you put -- Do you</p> <p>6 know why it says the 26th? Is it for any</p> <p>7 reason other than that's the day you were</p> <p>8 terminated?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you have any personal</p> <p>11 knowledge that Greg Prater tried to get Jim</p> <p>12 Brookshire to say that you were sleeping?</p> <p>13 A. I don't know. Prater wasn't</p> <p>14 even there that night. It was Jim</p> <p>15 Brookshire.</p> <p>16 Q. So you agree Prater wasn't</p> <p>17 even there that night?</p> <p>18 A. No, he wasn't. It was on a</p> <p>19 night shift.</p> <p>20 Q. Okay. So if Greg Prater</p> <p>21 wasn't at the plant the night that Jim</p> <p>22 Brookshire made the allegations, how is it</p> <p>23 that you say that Prater tried to convince</p>	<p style="text-align: right;">Page 196</p> <p>1 life. Just because for the same reason --</p> <p>2 Just like is fixing to happen next year, I</p> <p>3 am going back to Iraq. If I slough off in</p> <p>4 my civilian life, I slough off in my</p> <p>5 military life. I don't do that.</p> <p>6 Q. Okay. Let me ask you this:</p> <p>7 Do you know the night that Jim Brookshire</p> <p>8 allegedly made the allegations he saw you</p> <p>9 sleeping?</p> <p>10 A. Yes. I don't remember the</p> <p>11 exact date. I think it was around the 19th.</p> <p>12 But the exact incident, yes, sir, I remember</p> <p>13 it.</p> <p>14 Q. So you know the incident?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And you agree Greg Prater</p> <p>17 wasn't on duty that night?</p> <p>18 A. No, sir, he was not.</p> <p>19 Q. Wasn't at the plant?</p> <p>20 A. No, sir.</p> <p>21 Q. Do you even know whether he</p> <p>22 worked the next day?</p> <p>23 A. I don't know.</p>

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<p style="text-align: right;">Page 197</p> <p>1 Q. Okay. Do you know whether —</p> <p>2 Do you have any evidence to suggest that he</p> <p>3 and Jim Brookshire had talked before that</p> <p>4 night about accusing you of something?</p> <p>5 A. If I had it, you would have</p> <p>6 it.</p> <p>7 Q. Okay. So, but, again, I just</p> <p>8 want to make sure. Okay?</p> <p>9 A. Like I say, you're the one</p> <p>10 that's talked to them. You'll have to go</p> <p>11 ask them.</p> <p>12 Q. Let me ask you this: You're</p> <p>13 not aware of any evidence to suggest Greg</p> <p>14 Prater told Jim Brookshire to make up some</p> <p>15 allegations before that night, and Greg</p> <p>16 Prater wasn't there that night, and you</p> <p>17 don't know whether Greg Prater even worked</p> <p>18 the next day, what evidence do you have to</p> <p>19 suggest that Greg Prater told Jim Brookshire</p> <p>20 what to do, or when to do it, or how to do</p> <p>21 it?</p> <p>22 A. I don't have any evidence of</p> <p>23 Prater and Jim corroborating or whatever you</p>	<p style="text-align: right;">Page 199</p> <p>1 the evening in question?</p> <p>2 A. Yes, sir.</p> <p>3 Q. All right. How is it you know</p> <p>4 when Jim Brookshire made those allegations?</p> <p>5 A. I saw him and Kevin Hughes</p> <p>6 standing down on the floor pointing up at me</p> <p>7 and Shane.</p> <p>8 Q. Pointing up at you where?</p> <p>9 A. Up in my area of</p> <p>10 responsibility. They said that I was</p> <p>11 supposedly sleeping up in the SOPS. It's</p> <p>12 about -- It's what they call the third</p> <p>13 floor. And there's an open wire mesh floor</p> <p>14 right there. You can't hide. And Shane</p> <p>15 walked downstairs, and I let my guard down.</p> <p>16 I had a brain cramp. And it wasn't five</p> <p>17 minutes, here come Jim walking up the</p> <p>18 stairs, walking around the back, looked over</p> <p>19 at me about fifty foot away, walked down,</p> <p>20 looked out over the presses, came back,</p> <p>21 looked at me again. I watched him, I</p> <p>22 watched him walk all the way back down the</p> <p>23 stairs. When he did, I got up and walked</p>
<p style="text-align: right;">Page 198</p> <p>1 want to call it.</p> <p>2 Q. Okay. Well, you would agree</p> <p>3 that that's not consistent with what's</p> <p>4 contained in your complaint?</p> <p>5 A. Did Prater and Brookshire</p> <p>6 stick together on everything? Yes.</p> <p>7 Q. In other words, they're</p> <p>8 consistent?</p> <p>9 A. Yeah. I mean, if Prater said</p> <p>10 something, Brookshire backed him up;</p> <p>11 Brookshire said something, Prater backed him</p> <p>12 up.</p> <p>13 Q. Okay. But where you've</p> <p>14 indicated in your complaint that Prater got</p> <p>15 the production staffing manager, Jim</p> <p>16 Brookshire, to falsely accuse Dees of</p> <p>17 sleeping on the job, what evidence do you</p> <p>18 have that Prater did that?</p> <p>19 A. Like I said before, I don't</p> <p>20 have none. If I did, you'd have it.</p> <p>21 Q. Okay. Thank you.</p> <p>22 And am I correct that on the</p> <p>23 evening of -- Well, you indicated you know</p>	<p style="text-align: right;">Page 200</p> <p>1 downstairs.</p> <p>2 Q. Okay. Were you sitting down?</p> <p>3 A. Yes, sir, I was. I was trying</p> <p>4 to text message my daughter.</p> <p>5 Q. You were text messaging your</p> <p>6 daughter?</p> <p>7 A. I was trying to, yes, sir, I</p> <p>8 was.</p> <p>9 Q. So you had your phone in your</p> <p>10 hand?</p> <p>11 A. Yes, sir, I did.</p> <p>12 Q. Were you looking down into</p> <p>13 your lap at the phone? Or how did you have</p> <p>14 your phone?</p> <p>15 A. I had my phone right here</p> <p>16 (indicating). Like I said, I watched him</p> <p>17 walk up the stairs, and I watched him. We</p> <p>18 made eye contact, he kept walking. So I</p> <p>19 went back to text messaging. He come back,</p> <p>20 I looked up at him again, and I watched him</p> <p>21 walk all the way down. I closed my phone, I</p> <p>22 got up, and I went down.</p> <p>23 Q. Did you actually send someone</p>

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<p style="text-align: right;">Page 201</p> <p>1 a text message?</p> <p>2 A. I tried. No, I couldn't get</p> <p>3 out.</p> <p>4 Q. What do you mean you couldn't</p> <p>5 get out?</p> <p>6 A. Depending on the weather and</p> <p>7 where you was at, sometimes you could get a</p> <p>8 good signal in the plant and sometimes you</p> <p>9 couldn't.</p> <p>10 Q. Would there be any records to</p> <p>11 support whether or not you actually made a</p> <p>12 text message that evening?</p> <p>13 A. I've got my phone bill, but,</p> <p>14 no, I told you, I didn't get out.</p> <p>15 Q. Okay. So is it your testimony</p> <p>16 you had the phone in your hand, you were</p> <p>17 pressing buttons, but nothing was happening?</p> <p>18 A. Pretty much it.</p> <p>19 Q. Were you wearing a hard hat?</p> <p>20 A. No, sir. We wear ball caps</p> <p>21 with a little plastic insert. And it was</p> <p>22 sitting on the spool beside me, spool of</p> <p>23 cable.</p>	<p style="text-align: right;">Page 203</p> <p>1 A. No, sir. They wear a ball</p> <p>2 cap, what they call a bump cap, little</p> <p>3 plastic insert.</p> <p>4 Q. Okay. And during the period</p> <p>5 in which you saw Jim Brookshire up on that</p> <p>6 third floor, I mean, you saw Jim Brookshire</p> <p>7 on the third floor?</p> <p>8 A. Yes, sir. I watched him walk</p> <p>9 up, around, and back down.</p> <p>10 Q. Was this after Shane Archer</p> <p>11 had left?</p> <p>12 A. About five minutes after Shane</p> <p>13 left.</p> <p>14 Q. Five minutes. Do you recall</p> <p>15 it being five minutes? That was a long time</p> <p>16 ago.</p> <p>17 A. It wasn't long. Like I said,</p> <p>18 me and Shane had just been standing there</p> <p>19 wondering why they were standing down on the</p> <p>20 floor pointing up at us talking.</p> <p>21 Q. Okay. Do you remember what</p> <p>22 time it was you saw them down on the floor</p> <p>23 pointing up at you?</p>
<p style="text-align: right;">Page 202</p> <p>1 Q. So you were not wearing a ball</p> <p>2 cap?</p> <p>3 A. No, sir.</p> <p>4 Q. Were you wearing any sort of</p> <p>5 eye protection or anything like that?</p> <p>6 A. They were in my hard hat.</p> <p>7 Q. Hard hat or ball cap?</p> <p>8 A. Ball cap.</p> <p>9 Q. Did you have a hard hat with</p> <p>10 you?</p> <p>11 A. No. They don't wear hard</p> <p>12 hats.</p> <p>13 Q. They don't wear them anywhere?</p> <p>14 A. Not to my knowledge, no.</p> <p>15 Q. In the whole plant?</p> <p>16 A. Some people may, but I was</p> <p>17 stuck in my section, I don't know.</p> <p>18 Q. And your section was</p> <p>19 somewhere?</p> <p>20 A. Stamping maintenance.</p> <p>21 Q. So to your knowledge, in</p> <p>22 stamping maintenance they don't wear hard</p> <p>23 hats?</p>	<p style="text-align: right;">Page 204</p> <p>1 A. It was before chow.</p> <p>2 Everything happened before chow that night.</p> <p>3 Q. What time is chow?</p> <p>4 A. I believe it was -- I think it</p> <p>5 was eleven thirty that night, eleven thirty</p> <p>6 or eleven forty-five.</p> <p>7 Q. What time did you get to work?</p> <p>8 A. I don't know. You would have</p> <p>9 to -- Y'all got that.</p> <p>10 Q. What time did you usually</p> <p>11 start?</p> <p>12 A. It depended whether I was</p> <p>13 coming in early that night or late that</p> <p>14 week.</p> <p>15 Q. What's the latest you would</p> <p>16 have gotten there?</p> <p>17 A. I believe it was six or seven.</p> <p>18 Q. P.m.?</p> <p>19 A. I think.</p> <p>20 Q. Okay. And starting at six or</p> <p>21 seven, whenever you got there --</p> <p>22 A. Six to four forty-five and</p> <p>23 seven to five forty-five.</p>

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<p style="text-align: right;">Page 205</p> <p>1 Q. All right.</p> <p>2 A. But we always had to be there</p> <p>3 early.</p> <p>4 Q. So you would have been there</p> <p>5 sometime slightly before six or seven?</p> <p>6 A. Yes, sir.</p> <p>7 Q. All right. So you get there a</p> <p>8 little bit before six or seven. Do you go</p> <p>9 to the -- is there an office for stamping</p> <p>10 maintenance?</p> <p>11 A. That's where our lockers are</p> <p>12 at.</p> <p>13 Q. All right. So would you</p> <p>14 usually go to your locker first?</p> <p>15 A. Yes, sir.</p> <p>16 Q. All right. Do you remember</p> <p>17 doing that on the night in question?</p> <p>18 A. I did it every night. That's</p> <p>19 where my tools was locked up.</p> <p>20 Q. So you would go get your tools</p> <p>21 to start the day?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And on the evening in</p>	<p style="text-align: right;">Page 207</p> <p>1 A. Second and third floor.</p> <p>2 Q. Second and third floor.</p> <p>3 A. And if they was running them,</p> <p>4 it could be on the first floor too.</p> <p>5 Q. All right. Did you go to the</p> <p>6 second floor that night?</p> <p>7 A. Right off the bat?</p> <p>8 Q. Yeah.</p> <p>9 A. Probably not. I probably went</p> <p>10 and got the brief from the off-going shift.</p> <p>11 Q. What is that? Is that</p> <p>12 something telling you what to do?</p> <p>13 A. Like I said earlier this</p> <p>14 morning, we go get our tools, go talk to</p> <p>15 people on the off-going shift, find out if</p> <p>16 there's any breakdowns, anything, any major</p> <p>17 events we needed to know about or look out</p> <p>18 for.</p> <p>19 Q. How long does that usually</p> <p>20 take?</p> <p>21 A. If nothing happened, two</p> <p>22 seconds. Give me your radio. Bye, y'all</p> <p>23 take it easy.</p>
<p style="text-align: right;">Page 206</p> <p>1 question, did you go immediately from</p> <p>2 getting your tools to a meeting with Greg</p> <p>3 Prater or Kevin Hughes or anybody like that?</p> <p>4 What did you do?</p> <p>5 A. We didn't have meetings.</p> <p>6 Q. Okay.</p> <p>7 A. We'd get our tools and --</p> <p>8 Q. How did you know what to do?</p> <p>9 A. I mean, it's just standard.</p> <p>10 Everybody -- We'd come in, we'd get our</p> <p>11 tools, we'd go to work. I mean --</p> <p>12 Q. But how did you --</p> <p>13 A. -- that was the norm.</p> <p>14 Q. How did you know what to work</p> <p>15 on?</p> <p>16 A. We didn't work on nothing. If</p> <p>17 nothing wasn't broke down, we would go to</p> <p>18 our area of responsibility.</p> <p>19 Q. So you would just go to an</p> <p>20 area that you were responsible for?</p> <p>21 A. An area I was assigned.</p> <p>22 Q. And that was the SOP section</p> <p>23 up on third floor?</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. Would you share a radio with</p> <p>2 the off-going shift?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you know who your</p> <p>5 counterpart is on the off-going shift or who</p> <p>6 was on the evening in question?</p> <p>7 A. They didn't really have</p> <p>8 assigned areas like we did, I don't think.</p> <p>9 I mean, it would be different people.</p> <p>10 Sometimes it would be Duane Tatum, or</p> <p>11 sometimes it would be Lance Honeycutt, or --</p> <p>12 I can't remember the other guy's name.</p> <p>13 Q. All right. Well, that's okay.</p> <p>14 Once y'all sort of made the</p> <p>15 shift change and talked with the off-going</p> <p>16 guys, you would go to your work area;</p> <p>17 correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And on the evening in</p> <p>20 question, you think that would have been</p> <p>21 immediately up to the third level?</p> <p>22 A. Maybe not. Not if they was</p> <p>23 running. If they was running, we would be</p>

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<p style="text-align: right;">Page 209</p> <p>1 over at the press and see how they were 2 running and make sure the trolleys were 3 switching out right. 4 Q. Do you remember what you did? 5 A. No. 6 Q. You can't remember? 7 A. I remember the weather was bad 8 that night. There had been a couple of 9 nights that week the weather was bad, so I 10 don't -- several nights we had to go to the 11 storm shelters, like the pit and bathrooms, 12 because of the weather. So, no. 13 Q. Do you remember having to go 14 to the storm shelter on the evening we're 15 talking about? 16 A. I don't know if it was that 17 evening or a couple of evenings before. 18 Q. Okay. Do you remember when 19 you first went up to the third level on the 20 evening we're talking about? 21 A. Me and Shane went up there -- 22 at the time the incident occurred, me and 23 Shane had gone up there because we had to</p>	<p style="text-align: right;">Page 211</p> <p>1 got the system back online. 2 Q. How long did that take? 3 A. Not long. I don't know to be 4 honest. 5 Q. Okay. And so when you got the 6 trolleys back online, is that when Shane 7 Archer went downstairs? 8 A. After we talked about Jim and 9 Kevin pointing up at us talking. 10 Q. Okay. So you and Shane Archer 11 had a conversation where y'all talked about 12 Jim Brookshire and Kevin Hughes looking up 13 at you? 14 A. Yes, sir. 15 Q. And pointing? 16 A. Yes, sir. It was basically 17 what are they doing? Why are they pointing 18 up here? I don't know. 19 Q. And was that before midnight? 20 A. Yes, sir. 21 Q. And how much -- How long after 22 that was it that Jim Brookshire came 23 upstairs?</p>
<p style="text-align: right;">Page 210</p> <p>1 pull trolleys. 2 Q. Pull trolleys? 3 A. Yes, sir. Because we had a 4 problem. 5 Q. Just so -- I think I know what 6 you're talking about, but when you say pull 7 trolleys, is that when part of that conveyor 8 system gets off line or something, and you'd 9 have to go straighten it out? 10 A. If you know what I'm talking 11 about, yeah, the things that ride the rails, 12 that's the trolleys. 13 Q. Okay. Does that just mean one 14 of those got offline and you had to correct 15 it? 16 A. Yes, sir. 17 Q. Okay. And when you went up 18 there with Shane Archer, was that when you 19 looked down and saw Kevin Hughes and Jim 20 Brookshire looking up at you or was that 21 later in the evening? 22 A. No. It was at that instant. 23 We had just finished pulling a trolley, just</p>	<p style="text-align: right;">Page 212</p> <p>1 A. Like I said earlier, no more 2 than five minutes. 3 Q. All right. And was it unusual 4 to see him walking around up there? 5 A. Yes, sir. It was very unusual 6 to see him walking around up there unless 7 something was bad broke down. 8 Q. Okay. Do you recall seeing 9 him up there more than that one time on that 10 evening? 11 A. No, sir. 12 Q. No? 13 A. No, sir. 14 Q. Do you recall when Jim 15 Brookshire walked up there, was there 16 anybody else on the third level? 17 A. No, sir. 18 Q. Just you and him? 19 A. Yes, sir. 20 Q. Have you talked to anybody 21 else who talked to Jim Brookshire about what 22 he had gone up there for? 23 A. No, I don't guess I have.</p>

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<p style="text-align: right;">Page 213</p> <p>1 Q. Okay. And did you talk to Jim 2 Brookshire? 3 A. That night, no. And then 4 later on, huh-uh. 5 Q. When he walked up there and 6 you saw him, did you say anything to him? 7 A. No, sir. Like I said he 8 was -- I was there at an MCC panel, and he 9 was up, I don't know, forty-five, fifty foot 10 away over there on the handrail. 11 Q. Okay. Did you wave at him or 12 motion to him at all? 13 A. No, sir. I just looked at 14 him. 15 Q. You looked at him? 16 A. Yes, sir. He looked at me and 17 walked down to the presses, looked out over 18 the presses, then walked back, looked at me 19 again, and walked back down. 20 Q. What was the closest he got to 21 you? 22 A. Like I say, forty-five, maybe 23 fifty feet.</p>	<p style="text-align: right;">Page 215</p> <p>1 -- Yes, it is a computer, but it doesn't 2 have a screen and the keys -- keyboards are 3 like what you're thinking. You have to get 4 online with it. 5 Q. How big is it? 6 A. It's probably about ten-foot 7 long, two-foot deep, six-foot high. 8 Q. Okay. Does it have doors that 9 enclose it or some sort of cover or 10 anything? 11 A. Yes, sir. 12 Q. What's it got? 13 A. It's got doors. 14 Q. Okay. How big are the doors? 15 A. About like that door there 16 (indicating). 17 Q. Okay. Just for the sake of 18 the Record, that's not going to translate 19 well on paper. Are there two doors to the 20 whole thing? 21 A. No. There was four -- four 22 doors. 23 Q. So they would have each been</p>
<p style="text-align: right;">Page 214</p> <p>1 Q. Now, what was the thing you 2 said you were near? 3 A. Motor control panel, MCC 4 panel. 5 Q. MCC panel. Now, is that -- 6 What is that? 7 A. It houses the PLC, computer 8 that runs the SOPS system. 9 Q. Okay. That's helpful. Thank 10 you. What is the PLC? 11 A. Programmable logic computer. 12 Q. Just for the sake of the 13 record, what does SOP mean? 14 A. SOP is the trolley system, 15 side outer panel system. 16 Q. Okay. Again, what was the 17 thing that you were standing near? 18 A. MCC. 19 Q. Is the MCC, is it like a 20 computer, it has got computer readouts on 21 it, buttons and stuff? 22 A. It's not a computer like 23 you're thinking of. It's got cards and it</p>	<p style="text-align: right;">Page 216</p> <p>1 about a fourth of that ten-foot length? 2 A. Yes, sir. 3 Q. Okay. 4 A. Plus you had your stabs in 5 between. 6 Q. What is a stab? 7 A. Just your door frame. 8 Q. Okay. Now, at the time Jim 9 Brookshire came up there, did you have your 10 back to the MCC? 11 A. Yes, sir, I did. 12 Q. Okay. Any reason you had your 13 back to the MCC? 14 A. So I could watch the trolleys. 15 Q. Okay. Were you not up there 16 to watch the MCC? 17 A. No, sir. 18 Q. Okay. Why would you be there 19 near the MCC as opposed to some other area 20 to watch the trolleys? 21 A. Because if you try to sit out 22 on open mesh, you're going through the 23 floor.</p>

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<p style="text-align: right;">Page 217</p> <p>1 Q. Was it not open mesh there 2 near the MCC? 3 A. About a two-foot section, no, 4 sir. 5 Q. A two-foot section was not 6 open mesh? 7 A. No, sir. But you can clearly 8 see up there everywhere. And that's where 9 me and Shane was standing when Jim and Kevin 10 was standing up there pointing at us talking 11 about us. 12 Q. Okay. So from where you were 13 sitting at the time Jim Brookshire came up, 14 is it your testimony that you could see from 15 where you were sitting all the way down 16 through the second floor, and then down to 17 the first floor? 18 A. Yes, sir. 19 Q. And the first floor was the 20 main production level? 21 A. Yes, sir. 22 Q. Okay. Had you ever sat up 23 there before?</p>	<p style="text-align: right;">Page 219</p> <p>1 on this one, go to the next one, but then it 2 may stop again on the next one. Just 3 because you get it going for two seconds, 4 don't mean it's going to be going -- it's 5 going to take off and run. 6 Q. Okay. So you were going to 7 stay up there and make sure it kept running? 8 A. Yes, sir. 9 Q. Okay. What were you planning 10 to do? I mean, how long would you stay 11 there? 12 A. As long as nothing happened -- 13 Well, that was my area of responsibility. I 14 could have stayed there all night, and I 15 would have been right in doing so. I was 16 told to stay in my area of responsibility 17 just like everyone else. Like I said, Mark 18 Hanks, he had to stay on press one, Darrel 19 Gray, he had to stay on press two, and Weihe 20 and Barefoot. That was my AO that I was 21 responsible for. 22 Q. AO meaning what? 23 A. Area of operation, area of</p>
<p style="text-align: right;">Page 218</p> <p>1 A. Everybody had. 2 Q. Okay. And everybody being, 3 everybody in stamping maintenance or 4 everybody period? 5 A. Everybody in stamping 6 maintenance. Because if it goes down, you 7 may be up there five minutes, you may be up 8 there five hours. 9 Q. Okay. Let me ask you this: 10 When Shane Archer -- You and Shane Archer 11 were up there working together that night? 12 A. Yes, sir. Shane came up to 13 help me out. 14 Q. When you and Shane had got 15 done and he walked downstairs, why did you 16 stay upstairs as opposed to going with 17 Shane? 18 A. Wait to see if that trolley 19 stopped again or kept going. They had track 20 switches, you've seen them. Track switches 21 switch, they had a track that had gone out 22 on a track switch, which if you've seen the 23 system, which I'm sure you have, it may stop</p>	<p style="text-align: right;">Page 220</p> <p>1 responsibility. 2 Q. Okay. Did you ever sleep up 3 on the third level? 4 A. I don't sleep. 5 Q. Ever? 6 A. Ever. 7 Q. On the job? 8 A. I don't sleep on the job, no. 9 Q. Okay. 10 A. I told you if I sleep -- I'm a 11 career soldier. I've been doing this since 12 I was seventeen. 13 Q. Doing what? Stamping 14 maintenance? 15 A. No. I've been a soldier since 16 I was seventeen, and I don't sleep. You've 17 got a young Joe out there, yeah, they may 18 fall asleep every now and then. First big 19 exercise they have and they wake up with a 20 black ink mark cross their throat and they 21 know that they've been visited, and don't 22 know when or where, you don't sleep no more. 23 That's real life. When you go to the combat</p>

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<p style="text-align: right;">Page 221</p> <p>1 zone, you know what happens. You don't 2 sleep. You sleep, people die. 3 Q. Well, in terms of your work at 4 Hyundai, I'm assuming your testimony is 5 you've never slept? 6 A. No, sir. 7 Q. Before that night, on that 8 night, or since that night? 9 A. No, sir. You don't sleep at 10 work. 11 Q. Okay. What was it -- 12 A. If you sleep at work -- 13 Q. Was it unusual for people 14 working up on that third level to sleep? 15 A. I never saw nobody up there 16 other than maintenance production go up 17 there and count the panels. 18 Q. Okay. Did you ever see 19 anybody from maintenance sleep up there? 20 A. No, sir. 21 Q. Did you ever see any 22 indication that somebody from maintenance 23 had slept up there?</p>	<p style="text-align: right;">Page 223</p> <p>1 Q. And is it your testimony that 2 nobody from your shift ever indicated that 3 they or anybody else on your shift slept in 4 that corner? 5 A. I never talked to nobody on my 6 shift about sleeping in that corner, no, 7 sir. 8 Q. Okay. Did you ever talk to 9 anybody on your shift about sleeping 10 anywhere up on the third level? 11 A. No, sir. Drake Barefoot would 12 take his lunch break and go in the office 13 and sleep. Other than that, no, sir. 14 Q. In the office? 15 A. Yes, sir. During his lunch 16 break. 17 Q. And is it your testimony that 18 while you were there, that there was nothing 19 other than a chair in the back corner? 20 A. I don't remember seeing 21 nothing other than a chair there. 22 Q. Okay. Do you -- Do you have 23 any personal knowledge, based on your</p>
<p style="text-align: right;">Page 222</p> <p>1 A. Talking about a chair in the 2 back corner? Yes, sir, there was a chair in 3 the back corner. 4 Q. Was there a chair in the 5 corner? 6 A. In that back corner over 7 there, yes, sir, there was. 8 Q. What kind of chair was it? 9 A. Same kind of chair I was 10 sitting in, a metal chair. 11 Q. Was that all that was there? 12 A. I believe so. 13 Q. Nothing else in that back 14 corner? 15 A. No. 16 Q. Do you think somebody was back 17 there sleeping in that chair? 18 A. I don't know. Wasn't nobody 19 on my shift was. 20 Q. All right. Did you hear 21 anybody talking about people from other 22 shifts sleeping in that corner? 23 A. No, sir.</p>	<p style="text-align: right;">Page 224</p> <p>1 conversations with Wendy Warner at the time 2 you were terminated or anybody at that time 3 or before then or after then, to know what 4 went on at the time the decision to 5 terminate was made? 6 A. Say again. 7 Q. Let me see if I can come up 8 with an easier way of asking it. 9 Would it be fair to state you 10 don't know who was involved in the decision 11 to terminate you? 12 A. I have no idea who was 13 involved. 14 Q. Okay. And do you know 15 anything else about the decision to 16 terminate you? 17 A. No. Just that statement I 18 read where Prater said his recommendation 19 was termination. And that he told Hanks 20 that he did the investigation. 21 Q. All right. And would it be 22 fair to state that you don't know whether 23 Greg Prater sat in on the discussions or</p>

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<p style="text-align: right;">Page 225</p> <p>1 decision to terminate you?</p> <p>2 A. I didn't know they had had a</p> <p>3 meeting on it.</p> <p>4 Q. Okay. Do you have any reason</p> <p>5 to think that Greg Prater had any other</p> <p>6 involvement on it?</p> <p>7 A. Like I said, I didn't even</p> <p>8 know they had a meeting.</p> <p>9 Q. Okay. Do you have any</p> <p>10 evidence to suggest that your past military</p> <p>11 involvement, either in Korea, Iraq, National</p> <p>12 Guard, was a motivating factor in the</p> <p>13 decision to terminate you?</p> <p>14 A. That's the way it seemed.</p> <p>15 Q. And it seemed that way why?</p> <p>16 A. Because every bit of that</p> <p>17 stemmed from my prior duty commitment.</p> <p>18 Everything stemmed around my drill weekends.</p> <p>19 Q. What stemmed?</p> <p>20 A. All the problems, all the</p> <p>21 harassments.</p> <p>22 Q. I'm talking about the actual</p> <p>23 decision to terminate you.</p>	<p style="text-align: right;">Page 227</p> <p>1 Q. How was it that was part of</p> <p>2 your termination?</p> <p>3 A. Like I said before, that's</p> <p>4 where all my problems stem from. That's</p> <p>5 where they all started with the drill</p> <p>6 weekend.</p> <p>7 Q. Okay. So are you suggesting</p> <p>8 that the fact that you had problems with</p> <p>9 your drill weekends leads you to think that</p> <p>10 that's why you were terminated?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And do you have any firsthand</p> <p>13 knowledge that that is in fact the case?</p> <p>14 A. Just all the incidents leading</p> <p>15 up to it.</p> <p>16 Q. Okay. And do you know if</p> <p>17 those incidents were discussed or considered</p> <p>18 in the termination process?</p> <p>19 A. No, sir, I do not know that.</p> <p>20 THE WITNESS: It's break time.</p> <p>21 MR. JOHNSON: Okay. If you</p> <p>22 need a break, take one.</p> <p>23 (Recess taken.)</p>
<p style="text-align: right;">Page 226</p> <p>1 A. Oh, I have no idea. I don't</p> <p>2 know. Like I said, I didn't even know they</p> <p>3 had a meeting on it.</p> <p>4 Q. Okay. So it would be fair to</p> <p>5 state that you're not aware, based on your</p> <p>6 own personal knowledge, of any evidence to</p> <p>7 suggest that your military service was a</p> <p>8 motivating factor in the decision to</p> <p>9 terminate you?</p> <p>10 A. Rephrase.</p> <p>11 Q. Would it be fair to say that</p> <p>12 you don't have any personal knowledge that</p> <p>13 your military history was a motivating</p> <p>14 factor or part of the reason why they made</p> <p>15 the decision to terminate you?</p> <p>16 A. I -- As far as my personal</p> <p>17 knowledge, like I said, seems like my</p> <p>18 military career was the whole reason for my</p> <p>19 being fired.</p> <p>20 Q. Being fired or for being</p> <p>21 harassed?</p> <p>22 A. Both. It started with the</p> <p>23 harassment and ended in the termination.</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. Okay, Mr. Dees, we're back on</p> <p>2 the Record again. I want to ask you a</p> <p>3 couple more questions about some of the --</p> <p>4 this alleged sleeping incident.</p> <p>5 Jim Brookshire is somebody we</p> <p>6 talked about. Did you know Jim Brookshire</p> <p>7 well?</p> <p>8 A. He was -- Yeah. Working with</p> <p>9 him every day near about.</p> <p>10 Q. Okay. Did you ever have any</p> <p>11 problems with him?</p> <p>12 A. No. Not like with everyone</p> <p>13 else, no.</p> <p>14 Q. Okay. Did he ever demand</p> <p>15 orders from you, or anything like that?</p> <p>16 A. No. Because he wasn't in my</p> <p>17 immediate chain of command.</p> <p>18 Q. Okay. Did he ever say</p> <p>19 anything to you about your military career</p> <p>20 or your Guard duty or anything like that?</p> <p>21 A. No. The only thing he cared</p> <p>22 about was whether them presses was running.</p> <p>23 Q. Was what?</p>

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<p style="text-align: right;">Page 229</p> <p>1 A. Whether the presses was 2 running.</p> <p>3 Q. Okay. Do you have any reason 4 to think that Jim Brookshire has any bad 5 feelings or bad will towards you or anybody 6 else in the military for any reason?</p> <p>7 A. Towards me? Yeah. You got, 8 like I say, him and Prater, they were -- 9 they rubbed each other's back. You got 10 Prater come back down here a week ago, 11 talked to Bill Seivers telling him that 12 Applegate had told him to get rid of me. 13 You got --</p> <p>14 Q. Now, wait a minute. Let's --</p> <p>15 A. After I got fired, I called 16 Mr. Moon, he said he would look into it. He 17 says Prater was wrong in doing what he's 18 doing, but I can't do anything about it.</p> <p>19 Were they rubbing each other's 20 back? Yeah. I mean, everything -- 21 Everything started when Prater said I had to 22 have orders.</p> <p>23 Q. Okay.</p>	<p style="text-align: right;">Page 231</p> <p>1 A. Yeah. It wasn't a production 2 issue.</p> <p>3 Q. All right. In other words, it 4 was a maintenance issue and Brookshire 5 shouldn't have been there?</p> <p>6 A. Yeah.</p> <p>7 Q. All right. During any of 8 those meetings did he ever suggest to you 9 that he came because he didn't like you, 10 didn't like the work you did, didn't like 11 the fact that you were in the service, or 12 anything like that?</p> <p>13 A. He's a politician, he's not 14 going to come out and say -- He's going to 15 try to make himself look good.</p> <p>16 Q. When you say he's a 17 politician, do you mean that literally or 18 figuratively?</p> <p>19 A. Figuratively.</p> <p>20 Q. Okay. I'm assuming he's never 21 run for -- Had he run for office or anything 22 like that?</p> <p>23 A. Not that I know of. You</p>
<p style="text-align: right;">Page 230</p> <p>1 A. And that come because -- I 2 don't know why it come about.</p> <p>3 Q. Well, I -- I got a pretty good 4 understanding of your relationship with Greg 5 Prater. But I'm interested now in Jim 6 Brookshire. I want to make sure I know all 7 about that.</p> <p>8 Is what you're telling me that 9 the only issue you've got with Brookshire 10 was his closeness with Greg Prater?</p> <p>11 A. Well, every time I -- Not 12 every time. Several times I got called into 13 the office, Jim was there, yes.</p> <p>14 Q. When you got called into the 15 office for what?</p> <p>16 A. Anything. Like the daily 17 reports, the pit, the lift. Anything.</p> <p>18 Q. All right. Would that all be 19 stuff in Brookshire's area?</p> <p>20 A. Yeah. He was over that whole 21 area.</p> <p>22 Q. Would there be any reason he 23 shouldn't be there?</p>	<p style="text-align: right;">Page 232</p> <p>1 probably know him better than I do. I don't 2 know.</p> <p>3 Q. Are you just commenting on his 4 personality?</p> <p>5 A. Commenting on his personality.</p> <p>6 Q. Okay. Can you think of 7 anything else -- Other than showing up when 8 you got called into the office, can you 9 think of anything else Jim Brookshire did or 10 said that you think suggests any sort of 11 feelings against you?</p> <p>12 A. I mean, there had to be, why 13 else would he accuse me of sleeping?</p> <p>14 Q. What are they? Are you 15 guessing or you know of some?</p> <p>16 A. I don't know. You'll have to 17 ask him.</p> <p>18 Q. All right.</p> <p>19 MR. SPORT: And we're trying 20 to right now.</p> <p>21 Q. Okay. But from your personal 22 standpoint, do you know of anything?</p> <p>23 A. Like I said, everything</p>

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<p style="text-align: right;">Page 233</p> <p>1 started with my military problem -- my 2 military commitment. And that's where it 3 stayed throughout my tenure there. 4 Q. Okay. 5 A. So you have to ask him. 6 Q. To your knowledge, has Hyundai 7 ever been nominated for any awards related 8 to their employment of military personnel? 9 A. According to -- According to 10 them they have. And -- 11 Q. Do you think it's not true? 12 A. -- ESGR. 13 Well, it may be, I don't know. 14 Q. Okay. Are you saying it's not 15 true? 16 A. The ESGR rep said they had 17 been put in for one. And they said after I 18 got fired, about two weeks after I got 19 fired, I think, somebody said they put in 20 for one. I'm not sure. The ESGR rep, I 21 don't know, you'll have to call him. 22 Q. Who are you talking about? 23 A. That Dan, the one that I told</p>	<p style="text-align: right;">Page 235</p> <p>1 a week prior. 2 Q. What did he say? 3 A. He said that he didn't even 4 know that I was even being considered for 5 termination; that he didn't know nothing 6 about it; and that he would look into it. 7 Q. Okay. Did he say anything 8 else on the night of that call? 9 A. He apologized for my being 10 fired and he hated that happened because I 11 was a good worker. 12 Q. Okay. Did you say anything 13 else to him that night? 14 A. I don't remember. By the time 15 I got home, I was pretty perturbed. 16 Q. I mean, did you call him from 17 home? 18 A. Yes, sir. 19 Q. Did your wife talk to him that 20 night? 21 A. Yes. She explained everything 22 to him in Korean. 23 Q. Do you speak Korean?</p>
<p style="text-align: right;">Page 234</p> <p>1 you I had e-mailed, that ESGR 2 representative. You'll have to ask him. 3 Q. Okay. All right. We'll have 4 to come back to that question because I lost 5 that e-mail. 6 Is there anybody else that you 7 and I haven't talked about that either knows 8 -- that works at Hyundai, that either knows 9 anything about problems you had with Prater 10 or HR or anybody related to your service, 11 anybody else? 12 A. I called Mr. Moon the night I 13 got fired. 14 Q. Yeah. Let's talk about 15 Mr. Moon. Did you talk to Mr. Moon or did 16 your wife talk to Mr. Moon? 17 A. I talked to Mr. Moon first and 18 then my wife talked to him. 19 Q. All right. What did you tell 20 Mr. Moon? 21 A. I told him that I had been 22 fired, and that I was supposedly fired for 23 sleeping in the SOPS, up on the third floor,</p>	<p style="text-align: right;">Page 236</p> <p>1 A. Some. Between my Korean and 2 his English, we was able to communicate 3 pretty good. 4 Q. Did you speak to him some in 5 Korean? 6 A. I may have. Like I said, I 7 was pretty hot. 8 Q. But, again, am I right that 9 you told me everything that you told him or 10 that he said to you on that telephone call? 11 A. He said he would look into it 12 and get back with me. 13 Q. All right. Based on either 14 what you overheard in Korean -- Was the 15 conversation your wife had with him in 16 Korean? 17 A. Yes, sir. 18 Q. Okay. From what you could 19 hear and understand in Korean, or from what 20 she told you later, what is your 21 understanding as to what she said? 22 A. I wasn't paying attention to 23 the conversation she had with him. But</p>

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<p style="text-align: right;">Page 237</p> <p>1 basically the same thing, that he told her 2 he hated to see me fired because I was a 3 good employee and that he would look into it 4 and that he would get back with me. 5 Q. Did he say anything else to 6 your wife that evening? 7 A. I don't know. 8 Q. Okay. Do you know if your 9 wife had any later conversations with him? 10 A. The next night he called back. 11 Q. Okay. And did he speak to you 12 that night? 13 A. A little bit. He mostly 14 talked to my wife. 15 Q. Okay. Were you able to 16 overhear the conversation? 17 A. Yes, sir. I talked to her 18 afterward. 19 Q. All right. What did they talk 20 about that night? 21 A. He stated that Prater was 22 lying, that Prater had been wrong. 23 Q. That Prater was lying?</p>	<p style="text-align: right;">Page 239</p> <p>1 Q. Okay. Did he indicate who he 2 had talked to since the last time y'all had 3 a telephone call? 4 A. I think he talked to -- I 5 think he said it was J.H. Kim or president 6 Ahn. It was J.H. Kim or Ahn, one, I can't 7 remember. 8 Q. All right. Do you know why 9 Mr. Moon said that Greg Prater had lied? 10 A. You'll have to ask Mr. Moon 11 that. 12 Q. Okay. Do you -- 13 A. Mr. Moon said that Prater was 14 a bad man. 15 Q. Okay. Did he say specifically 16 what he understood Greg Prater to have lied 17 about? 18 A. Yeah. Said that Greg Prater 19 lied about my sleeping at work. 20 Q. Okay. Did you get the 21 impression that Mr. Moon thought that Greg 22 Prater had been there that night? 23 A. No, sir, I did not.</p>
<p style="text-align: right;">Page 238</p> <p>1 A. Yes, sir. 2 Q. Lying about what? 3 A. My supposedly sleeping at 4 work. 5 Q. Why did he say Prater was 6 wrong? 7 A. And that he was -- 8 MR. KILBORN: Don't interrupt 9 him. 10 A. I don't know. You'll have to 11 ask him. That Prater was wrong in firing me 12 and that there was nothing he could do about 13 it now, he was told to stay away from it. 14 Q. Did he say who said to stay 15 away? 16 A. No. You'll have to -- I think 17 he made the comment to Mark Hanks. I'm not 18 sure. 19 Q. Do you know what Mr. Moon's -- 20 what his position is at the plant? 21 A. He was the Korean counterpart 22 to Prater; he was from HMC, he was our 23 Korean boss.</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. Okay. Did Mr. Moon say that 2 Jim Brookshire had lied? 3 A. I didn't ask him about Jim 4 Brookshire. 5 Q. You never talked about Jim 6 Brookshire? 7 A. No, sir. 8 Q. Did you know that Jim 9 Brookshire was the one that indicated he had 10 seen you sleeping? 11 A. Yes, I did. I knew from the 12 very first meeting. 13 Q. Okay. You never told Mr. Moon 14 about that? 15 A. No, I did not. 16 Q. You never told Mr. Moon to 17 talk to Mr. Brookshire? 18 A. No. I'm sure he probably did, 19 though. You've interviewed my friends, 20 you'd have to ask them what -- they talked 21 to them. 22 Q. When you say you're sure 23 you're sure he did, do you know that or are</p>

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<p>1 you just wanting that to be the case?</p> <p>2 A. Say again.</p> <p>3 Q. When you say you're sure that</p> <p>4 Mr. Moon talked to Jim Brookshire, why? Why</p> <p>5 do you say that?</p> <p>6 A. Because of Mr. Moon's attitude</p> <p>7 toward Prater and production --</p> <p>8 stamping/production in general.</p> <p>9 Q. Okay.</p> <p>10 A. Stamping management.</p> <p>11 Q. Okay. Did he ever say</p> <p>12 anything about Jim Brookshire?</p> <p>13 A. On the phone? No.</p> <p>14 Q. Did he say anything about Jim</p> <p>15 Brookshire in person?</p> <p>16 A. No. We never talked about</p> <p>17 Jim.</p> <p>18 Q. Okay.</p> <p>19 A. Usually all we talked about</p> <p>20 was production -- I mean work-related</p> <p>21 problems. But me and Mr. Moon was good</p> <p>22 friends. We talked. We talked a lot.</p> <p>23 Q. Did you and Mr. Moon talk</p>	<p>1 English.</p> <p>2 Q. That's debatable. I'm</p> <p>3 assuming y'all talk in English at the house?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And she works in an</p> <p>6 English-speaking environment?</p> <p>7 A. Yes, sir. My daughters don't</p> <p>8 speak Korean, so she speaks English pretty</p> <p>9 well.</p> <p>10 Q. Okay. Did Mr. Moon indicate</p> <p>11 -- or did you and Mr. Moon discuss John</p> <p>12 Applegate at all?</p> <p>13 A. No, sir. At that point I was</p> <p>14 still upset. I mean, I was -- I was fired</p> <p>15 up. I had been treated like crap, treated</p> <p>16 like trash, accused of something I didn't</p> <p>17 do; gone through the wringer for several,</p> <p>18 several months. No, I was just upset. I</p> <p>19 was bad upset. I had never had nothing like</p> <p>20 that happen to me in my life.</p> <p>21 Q. Okay.</p> <p>22 A. I've got my evaluations from</p> <p>23 BE&K and everywhere. When I left BE&K and</p>
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<p>1 about who had made the decision to terminate</p> <p>2 you?</p> <p>3 A. No, I did not.</p> <p>4 Q. Okay. Y'all didn't talk about</p> <p>5 anybody but Greg Prater?</p> <p>6 A. I didn't talk about Greg</p> <p>7 Prater. I asked -- He told me he would</p> <p>8 check into seeing why I got fired. I don't</p> <p>9 know who he talked to specifically, no. He</p> <p>10 said, like I say, it was either J.H. Kim or</p> <p>11 Ahn, one, and I told you the statements he</p> <p>12 made.</p> <p>13 Q. Okay. And he didn't say</p> <p>14 anything else?</p> <p>15 A. I don't know. He talked to my</p> <p>16 wife, you'll have to -- I don't know.</p> <p>17 Q. Okay. And is your wife's</p> <p>18 English perfect English?</p> <p>19 A. Pretty much.</p> <p>20 Q. If we were to take her</p> <p>21 deposition, would there be any reason we</p> <p>22 would need an interpreter?</p> <p>23 A. Not unless you don't speak</p>	<p>1 went to International Paper, I got a</p> <p>2 fifty-three out of fifty-four rating. I had</p> <p>3 outstanding marks on my record. I've had</p> <p>4 outstanding marks everywhere I worked. I've</p> <p>5 never been accused of sleeping or had a</p> <p>6 blemish on my record.</p> <p>7 Q. Okay. Let's talk a little bit</p> <p>8 about in your complaint you've included as</p> <p>9 count number two an outrage claim. That</p> <p>10 starts on, I guess, page seven on your</p> <p>11 complaint.</p> <p>12 What's indicated here in count</p> <p>13 two suggests that Hyundai intentionally</p> <p>14 created a harassing environment and</p> <p>15 subjected Dees to a pattern of intentional</p> <p>16 harassment regarding Dees' membership in the</p> <p>17 Guard and Dees' Guard service obligations.</p> <p>18 MR. KILBORN: Are you</p> <p>19 referring to a specific paragraph?</p> <p>20 MR. JOHNSON: Paragraph</p> <p>21 twenty-four.</p> <p>22 MR. KILBORN: Take a look at</p> <p>23 twenty-four.</p>

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<p style="text-align: right;">Page 245</p> <p>1 Q. If you want to look at that</p> <p>2 paragraph, you can, Mr. Dees.</p> <p>3 Have you read it?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Other than the things</p> <p>6 that we have already talked about, which is</p> <p>7 obviously quite a bit, are there any other</p> <p>8 facts that you're aware of to suggest that</p> <p>9 Hyundai intentionally created a harassing</p> <p>10 environment?</p> <p>11 A. Yes, sir. Like I said, right</p> <p>12 from the time it started, my Guard service</p> <p>13 was a -- the center of everything, until my</p> <p>14 termination.</p> <p>15 Q. Okay. And you've indicated</p> <p>16 that. Is there anything else that you're</p> <p>17 relying on to support your outrage claim</p> <p>18 factually?</p> <p>19 A. Like I said, you've got a team</p> <p>20 leader still working out there that said</p> <p>21 Prater came down a week ago and told him</p> <p>22 that Applegate told him to get rid of me,</p> <p>23 that he needed to get rid of me.</p>	<p style="text-align: right;">Page 247</p> <p>1 what you're telling me now?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And this was -- when Prater</p> <p>4 came was when?</p> <p>5 A. About a week ago, I think.</p> <p>6 Q. And Bill Seivers told Mark</p> <p>7 Bornberg that Prater had recordings?</p> <p>8 A. Of Applegate stating --</p> <p>9 telling him he needed to get rid of me.</p> <p>10 Q. All right. When were they</p> <p>11 made?</p> <p>12 A. I have no idea. You'll have</p> <p>13 to ask Applegate and Prater.</p> <p>14 Q. Do you have any idea, based on</p> <p>15 your discussions with Mark Bornberg, why,</p> <p>16 apparently, Greg Prater came to Bill</p> <p>17 Seivers' house to talk to him?</p> <p>18 A. I have no idea.</p> <p>19 Q. Do you have any idea why they</p> <p>20 would have talked about this situation?</p> <p>21 A. You'll have to ask Bill</p> <p>22 Seivers that, or Prater.</p> <p>23 Q. And, again, I just want to</p>
<p style="text-align: right;">Page 246</p> <p>1 Q. Who said this and when did</p> <p>2 they say it?</p> <p>3 A. Bill Seivers, he's a team</p> <p>4 leader on one of the shifts out there now.</p> <p>5 Q. When did you talk to him?</p> <p>6 A. I didn't. You'll get a chance</p> <p>7 to talk to him when you go back to the</p> <p>8 plant, I reckon. Prater came by his house a</p> <p>9 week ago and made the comment that he had</p> <p>10 recordings of Applegate making the comment</p> <p>11 he needed to get rid of me.</p> <p>12 Q. And you didn't talk to Bill</p> <p>13 Seivers?</p> <p>14 A. No, sir.</p> <p>15 Q. Do you know who talked to Bill</p> <p>16 Seivers and told him he needed to get rid of</p> <p>17 you?</p> <p>18 A. Yes, sir. Mark Bornberg.</p> <p>19 Q. So Mark Bornberg talked to</p> <p>20 Bill Seivers?</p> <p>21 A. Yes, sir. They work together</p> <p>22 everyday.</p> <p>23 Q. And called you and told you</p>	<p style="text-align: right;">Page 248</p> <p>1 know what you know. If you don't know</p> <p>2 anything, that's fine.</p> <p>3 Did you work with Bill</p> <p>4 Seivers?</p> <p>5 A. Yes, sir. He was a team</p> <p>6 leader on the other shift.</p> <p>7 Q. Okay. Was Bill Seivers</p> <p>8 somebody you were close to?</p> <p>9 A. I mean, yeah, we worked --</p> <p>10 Like I said, everybody in our section, we</p> <p>11 lived there, twelve hours a day, sometimes</p> <p>12 seven days a week.</p> <p>13 Q. Okay. Were he and Prater</p> <p>14 particularly close?</p> <p>15 A. I don't know. You'll have to</p> <p>16 ask them about that.</p> <p>17 Q. Okay. Another thing that</p> <p>18 you've indicated in your outrage claim on</p> <p>19 page seven of your complaint is that this</p> <p>20 situation caused you severe emotional</p> <p>21 distress.</p> <p>22 What -- I mean, what kind of</p> <p>23 severe emotional distress have you suffered?</p>

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<p style="text-align: right;">Page 249</p> <p>1 A. I have never, never had a 2 blemish on any record, as I've stated 3 before, military or civilian. When you're 4 standing there among your friends, you've 5 got security guards coming in telling you 6 you've got to go, treating you like a 7 criminal, they won't even let you go get 8 your personal property, that HMMA says 9 belongs to them once it gets through that 10 gate, says it's no longer yours, it's 11 theirs, you can't go get it; walking you 12 out, surrounding you like you're a crook. 13 Here I have -- Like I said, I 14 ain't no war hero, but I served my country 15 proudly so they can act like that and that 16 ain't -- I was walked out like a criminal. 17 When I got to that building, that security 18 building, I walked in, everybody is just 19 standing there bowed up and everything. I'm 20 the focus of attention and it ain't good. 21 I'm walked in a room, I'm sat down, this 22 lady introduces herself, the next gentleman, 23 the next gentleman, and then she reads me a</p>	<p style="text-align: right;">Page 251</p> <p>1 that was very hard to get, with better 2 benefits than I had on active duty in the 3 military, to unemployed. Then I've got to 4 go home and try to comfort her. All my 5 friends at work, everybody -- there's a lot 6 of people that work there, then they're 7 looking at you like why did you get fired? 8 Yeah, it hurt. That ain't right. 9 Q. It sounds to me like you got a 10 significant amount of problems with the way 11 in which the termination was conducted? 12 A. It ain't just the way. Why 13 was I terminated? 14 Q. Okay. 15 A. Like I said, they ignored 16 their own process. They got a seven -- six- 17 or seven-step process. I went from zero to 18 fired. After several complaints, even a 19 complaint -- a letter sent by my unit, and 20 it's the same complaint the whole time, all 21 of a sudden I'm fired for an accusation that 22 occurred in a matter of five minutes. No. 23 Q. Any other facts you can point</p>
<p style="text-align: right;">Page 250</p> <p>1 letter, slams it down on the table, face 2 down. When I asked her questions, she's 3 short, very rude, gets up and walks out. 4 And then, the only thing 5 they're worried about is getting your little 6 security lock, your safety lock, and the 7 keys. And you ask why come I'm being fired? 8 What happened to your firing process? They 9 act like you're not even there; they don't 10 even want to acknowledge you. You get 11 walked out, you're dropped off down here 12 (indicating), your truck is three gates up. 13 Security guard volunteered to take me to my 14 truck. When I get to my truck, I had to 15 call them aside to get them to bring me my 16 tool bag, and then they got on to Shane 17 Archer for bringing me my tool bag that I 18 had purchased with my money, that they said 19 now belonged to them because I brought it in 20 that gate. I go home, my wife, I call her, 21 she's crying. 22 All of a sudden I've gone from 23 a very, very good job that I wanted to keep,</p>	<p style="text-align: right;">Page 252</p> <p>1 to that have resulted in severe emotional 2 distress? 3 A. Made it look like my military 4 career wasn't worth a flip. Made it look 5 like I was just some piece of trash come up 6 looking for a job. 7 Q. Is that all the facts that 8 you're relying on to support your severe 9 emotional distress claim? 10 A. Is that all the facts? No. 11 My wife is still -- Everybody is still like: 12 I can't believe Leon got fired. 13 Q. Tell me how -- I mean, tell me 14 how else it has impacted you. 15 A. It impacted me financially big 16 time. I go from a job where I'm bringing 17 home real good money, insurance, like I 18 said, better than I had in the military, to 19 a job where -- I'm just jobless. And the 20 only reason I got a job the next day, is 21 because of a fellow I grew up with that I'd 22 known all my life. Because when I went in 23 to fill out the job application the next</p>

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<p style="text-align: right;">Page 253</p> <p>1 morning, the fellow told me, he asked me, 2 why did you leave Hyundai. I told him, I 3 said, I got fired. He said, I'm going to 4 tell you straight up, if it hadn't been for 5 your friend there recommending you, I would 6 not have hired you. 7 Q. Who was your friend that 8 recommended you? 9 A. James Daniel Smitherman. 10 Q. Smitherman? 11 A. Yes, sir. They told me 12 straight up they wouldn't have hired me 13 simply because I had been fired. I didn't 14 lie to them, I told them why I was fired, 15 said they accused me of sleeping on the job. 16 And when I got on with International Paper, 17 same thing, if I hadn't been working there 18 for five months and they hadn't seen my work 19 performance, they told me they would not 20 have hired me. Because I told them, same 21 thing, they asked me why I left Hyundai, I 22 told them the circumstances, everything, I 23 didn't holdback. I told them everything.</p>	<p style="text-align: right;">Page 255</p> <p>1 A. I don't know. 2 Q. All night? 3 A. All night the first few 4 nights, yeah. I've never -- I told you I've 5 never, never had a blemish on my record. 6 Q. Since those first few nights, 7 have you lost any sleep over it? 8 A. I don't know. I mean, there's 9 times me and her talk about it, yeah. I've 10 never been treated like that, never. 11 Q. All right. Are there any 12 other sort of psychological problems that 13 you've had as a result of the emotional 14 distress of this incident? 15 A. Yeah. Every time I go to fill 16 out an application anywhere it says have you 17 ever been terminated? Yes, I have. And 18 why? 19 Q. Are you filling out job 20 applications currently? 21 A. No. But even if you go to a 22 bank and fill out a loan application, 23 they'll ask if you've ever been terminated</p>
<p style="text-align: right;">Page 254</p> <p>1 And they said, you better be glad we saw 2 your work performance and James recommended 3 you or you would not be getting this job. 4 Q. Okay. In terms of the severe 5 emotional distress you're claiming in this 6 lawsuit, did you ever talk to your pastor 7 about it, seek any counseling, go to the 8 doctor about it? 9 A. I'm a soldier, I don't have 10 time to talk to nobody and I had a family to 11 feed, a kid in college, a kid in high 12 school. I had to work because I wasn't 13 making nowhere near what I was bringing home 14 out there. 15 Q. Did it have any physical 16 impact on you at home? I mean did you cry a 17 lot? 18 A. I don't cry. Unless my friend 19 is dead, I don't cry. 20 Q. Did you lose sleep over it? 21 A. Yeah. When you get fired, I 22 stayed wake all night several nights. 23 Q. How many nights?</p>	<p style="text-align: right;">Page 256</p> <p>1 from a job. I'm an honest person, like I 2 said, I'll tell you when I mess up. And 3 I've got to put yes, and they're going to 4 ask my why and I've got to tell them. 5 Q. Have you received any medical 6 treatment as a result of emotional distress 7 as a result of this incident? 8 A. I told you, I've got a family 9 with a kid in college, I ain't got time to 10 seek nothing, I've got to make money. 11 I've got a girl that's in a 12 third year in college and junior in high 13 school, I don't have time to go talk to 14 nobody. I got bills to pay, like everybody 15 else. 16 Q. You mentioned that Shane 17 Archer had gotten your tool bag? 18 A. Yes, sir. And they got onto 19 him for that. They threatened to fire him. 20 Q. I want to make sure I 21 understand what was going on there. I 22 assume your tool bag -- Where was your tool 23 bag when he went to get it?</p>

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<p style="text-align: right;">Page 257</p> <p>1 A. It was in the plant back there 2 in the stamping section. I don't even 3 remember where I left it. 4 Q. So when they had come to get 5 you before they went and cleaned out your 6 locker and gave you your jacket, had you had 7 your tool bag with you somewhere out in the 8 plant, you just left it there? 9 A. Yes, sir. 10 Q. When they came up to you? 11 A. Yes, sir. 12 Q. Where did Shane Archer bring 13 it to you? 14 A. He brought it to the gate up 15 there in front of body weld, up there where 16 I parked. 17 Q. Okay. And that was after you 18 sat down with Wendy Warner and the others to 19 talk about the termination? 20 A. They kicked me out of the 21 plant, I couldn't get back in. As a matter 22 of fact, the guard that gave me a ride to my 23 truck, come back around there to the gate</p>	<p style="text-align: right;">Page 259</p> <p>1 document before? 2 MR. SPORT: Matt, while he's 3 looking at that, would you mind -- if the 4 document is Bates numbered, putting the 5 Bates number in the Record? 6 MR. JOHNSON: The only reason 7 I wouldn't, is because some of these are our 8 documents and some are your documents, so 9 the Bates numbers -- if I say it's Bates 10 number 35 -- 11 MR. SPORT: Just read the 12 Bates number into the Record. 13 MR. JOHNSON: I know. But if 14 I say Bates number 35, it could be my Bates 15 number 35 or your Bates number 35. 16 MR. SPORT: Well, no, your 17 Bates sequence is Dees V. HMMA and ours is 18 just Dees. So they are different. 19 MR. JOHNSON: Why don't we 20 just use the exhibit numbers. It's a 21 deposition, why don't we just use exhibit 22 numbers. 23 MR. SPORT: Okay. Well, I</p>
<p style="text-align: right;">Page 258</p> <p>1 and wanted to know why I was still there. 2 And Don Gillingham, something like that, the 3 body weld maintenance manager, he was 4 standing outside, about thirty feet down 5 from me. Apparently everybody but me knew I 6 was getting fired because he called security 7 and asked what I was still doing there, when 8 all I'm doing is waiting on my tool bag. I 9 was treated like a thug, and I don't like 10 it. I might as well have been a prisoner of 11 war somewhere. 12 THE WITNESS: Let me take a 13 break and go check on my wife. 14 MR. JOHNSON: Okay. That's 15 fine. 16 (Recess taken.) 17 (Whereupon, Defendant's 18 Exhibit No. 6 was marked 19 for identification.) 20 Q. Mr. Dees, this is something 21 we've marked as Exhibit 6 to your 22 deposition. Can you take a look at that and 23 tell me whether that -- you've seen this</p>	<p style="text-align: right;">Page 260</p> <p>1 don't know why you would be opposed to 2 putting the Bates number in the Record. 3 MR. KILBORN: Well, I'll put 4 it in there. It's Dees versus HMMA 00035. 5 Q. Have you read it? 6 A. Yes, sir. 7 Q. Several lines down there in 8 bold print it suggests that -- or Greg 9 Prater suggests that during his discussion 10 with you at one point you responded by 11 saying, quote, I just don't give a damn. 12 You guys just do whatever you want. I'm fed 13 up with this -- and I'll spell -- S-H-I-T, 14 period, end quote. 15 Do you recall ever making a 16 statement similar to that? 17 A. A statement I made to him. 18 Then he referred to -- You've got to look at 19 it if you were a forward observer on lookout 20 guard duty. The statement I made to him is, 21 if I were the lookout on guard duty, I 22 wouldn't be sleeping. 23 Q. So are you saying you did not</p>

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<p style="text-align: right;">Page 261</p> <p>1 make the comment he has in bold print there?</p> <p>2 A. No, sir, I did not.</p> <p>3 Q. Okay. Not at that time, and</p> <p>4 never at any time?</p> <p>5 A. (Witness shakes head in the</p> <p>6 negative.)</p> <p>7 Q. When you say you remember --</p> <p>8 Are you saying you don't remember making it</p> <p>9 or you know you didn't make it?</p> <p>10 A. No, sir, I didn't -- I didn't</p> <p>11 cuss him like that.</p> <p>12 Q. Okay.</p> <p>13 A. And I didn't make --</p> <p>14 Q. When you say you didn't cuss</p> <p>15 him like that, is that because you don't use</p> <p>16 curse words?</p> <p>17 A. Try not to.</p> <p>18 Q. Okay. When you say try not</p> <p>19 to, do you succeed or do you use them?</p> <p>20 A. Most of the time I do.</p> <p>21 Q. Okay. Is it your testimony</p> <p>22 that you did not use curse words at Greg</p> <p>23 Prater?</p>	<p style="text-align: right;">Page 263</p> <p>1 firing process, they have to tell you.</p> <p>2 Q. All right. Now, so in terms</p> <p>3 of this process, did you ever raise that</p> <p>4 issue? Did you ever say, hey, somebody,</p> <p>5 it's not right to terminate me, I haven't</p> <p>6 gone through the process?</p> <p>7 A. That lady.</p> <p>8 Q. Wendy Warner?</p> <p>9 A. That's her.</p> <p>10 Q. Okay.</p> <p>11 A. And like I said, it's like I</p> <p>12 wasn't even talking.</p> <p>13 Q. Did she respond to you or say</p> <p>14 anything about that process?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. Now, I mean, in terms</p> <p>17 of processes and procedures, did you engage</p> <p>18 in any subsequent processes or procedures</p> <p>19 after your termination to try to get your</p> <p>20 job back or try to get the situation</p> <p>21 changed?</p> <p>22 A. I called them about the --</p> <p>23 what's it called?</p>
<p style="text-align: right;">Page 262</p> <p>1 A. No, sir, I did not.</p> <p>2 Q. Did you use any at anybody at</p> <p>3 the plant?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Did you use curse words</p> <p>6 around your coworkers?</p> <p>7 A. No, sir. Most of the time --</p> <p>8 If I mash my finger or something.</p> <p>9 No, sir, I try not to, and</p> <p>10 most of the time I don't. I'm not going to</p> <p>11 sit here and tell you no, I never do it.</p> <p>12 Q. In your conversations with</p> <p>13 Greg Prater, at any point in time did you</p> <p>14 ever ask him, what can I do about this</p> <p>15 situation? How can I keep my job? What can</p> <p>16 I do to keep my job?</p> <p>17 A. I didn't think my job was in</p> <p>18 jeopardy at that point. Like I said, they</p> <p>19 have a six- or seven-step firing process. I</p> <p>20 haven't even entered phase one at this step,</p> <p>21 at this phase. I have not entered the</p> <p>22 firing process whatsoever. Any time you --</p> <p>23 Lucas Cooner told us, any time you enter a</p>	<p style="text-align: right;">Page 264</p> <p>1 Q. Team member review?</p> <p>2 A. That's it.</p> <p>3 Q. Okay. Tell me about that.</p> <p>4 Who did you call?</p> <p>5 A. I never could get ahold of</p> <p>6 nobody. I had Rob Clevenger's number, I</p> <p>7 think, and I never saw him. I'd leave him</p> <p>8 messages and he'd leave me messages.</p> <p>9 Q. So y'all traded messages?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did Wendy Warner ever call</p> <p>12 you?</p> <p>13 A. No, sir.</p> <p>14 Q. Did anybody but Rob Clevenger</p> <p>15 ever call you about the review process?</p> <p>16 A. I don't think so. I don't</p> <p>17 know.</p> <p>18 Q. Okay. Do you remember getting</p> <p>19 a letter from Wendy Warner indicating when</p> <p>20 the team member review would be scheduled</p> <p>21 for?</p> <p>22 A. Yeah. I got it on a Saturday</p> <p>23 evening and that review was supposed to have</p>

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<p style="text-align: right;">Page 265</p> <p>1 been a Monday morning. 2 (Whereupon, Defendant's 3 Exhibit No. 7 was marked 4 for identification.) 5 Q. Okay. And let me mark as 6 Exhibit 7, a copy of the letter. 7 MR. JOHNSON: For Mr. Sport 8 and Mr. Kilborn's benefit, that's Dees V 9 HMMA document 1. 10 MR. KILBORN: Thank you. 11 Q. Mr. Dees, what we've marked 12 there as Exhibit 7, do you recall receiving 13 that letter at your home? 14 A. Yes, sir. 15 Q. And you say you received that 16 on a Saturday? 17 A. Yes, sir. 18 Q. Okay. And then the review was 19 scheduled for the following Monday? 20 A. Yes, sir. 21 Q. Okay. And it was scheduled 22 for ten o'clock in the morning? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 267</p> <p>1 Hyundai that you got another job and it 2 conflicts with that ten o'clock meeting? 3 A. I got this letter Saturday 4 evening. Monday morning you're not going to 5 get ahold of anybody there. 6 Q. Had you ever left a voicemail 7 with Rob Clevenger saying that you had 8 another job and telling him when it ought to 9 be scheduled? 10 A. No, sir. This letter and 11 those two little messages, the only thing I 12 got was that I met the requirements, and 13 that was it. I didn't know what was going 14 on, I never could get ahold of nobody there. 15 Q. Did you write them a letter? 16 A. No, sir, I did not. 17 Q. Were you keeping notes about 18 what was going on at this point in time? 19 A. No, sir. I had to make money. 20 Q. Okay. 21 A. Because I had to work a lot of 22 hours because I wasn't making nowhere near 23 what I was making.</p>
<p style="text-align: right;">Page 266</p> <p>1 Q. And did you attend? 2 A. No, sir. 3 Q. Did you call Wendy Warner to 4 talk about it? 5 A. No, sir. 6 Q. Did you call Rob Clevenger to 7 talk about it? 8 A. No, sir. 9 Q. Did you call anybody to say I 10 can't be there at ten? 11 A. No, sir. I believe I talked 12 to my lawyers about it. 13 Q. Okay. And after talking to 14 your lawyers, you didn't show up? 15 A. No, sir. The reason I didn't 16 show up, because I had a job that was paying 17 a little bit, even though it wasn't paying 18 what I was making at Hyundai. And if I had 19 taken off from a job, not only being there a 20 week or two to go to meet to try to get my 21 old job, I wouldn't have had a job when I 22 got back the next day. 23 Q. Did you tell anybody at</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. You said you were keeping 2 notes when you were at Hyundai, you were 3 making money then, weren't you? 4 A. Yes, I was. 5 Q. And you were working? 6 A. Yes, sir. 7 Q. And you were keeping notes 8 then? 9 A. I didn't have the problems I 10 was having then. 11 Q. And this was still going on 12 later? 13 A. There was no one to talk to, 14 what notes was there to keep? I had two 15 messages on my answering machine. What else 16 is there to keep? I kept the messages. 17 Q. Do you think they were both 18 from Rob Clevenger? 19 A. I don't remember. I know one 20 of them was. I don't remember if both of 21 them were or not. I don't know. 22 Q. So you remember one of them 23 was from Rob Clevenger?</p>

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<p style="text-align: right;">Page 269</p> <p>1 A. Yes, sir.</p> <p>2 Q. And the other may have been</p> <p>3 from him, may have been from somebody else?</p> <p>4 A. May have been.</p> <p>5 Q. Do you know when those</p> <p>6 telephone messages came in?</p> <p>7 A. According to this, it says</p> <p>8 March the 2nd and March the 7th. May or may</p> <p>9 not have been, I don't know. Like I said,</p> <p>10 my world had been turned upside down.</p> <p>11 Q. Do you recall receiving the</p> <p>12 initial phone message on March the 2nd?</p> <p>13 A. I don't believe so.</p> <p>14 Q. And do you know whether that</p> <p>15 was from Rob Clevenger or who?</p> <p>16 A. I don't remember.</p> <p>17 Q. Do you remember returning that</p> <p>18 call immediately?</p> <p>19 A. No, sir. Because it was late</p> <p>20 in the evening, I had gotten home from work</p> <p>21 late.</p> <p>22 Q. All right. Did you return</p> <p>23 that call the next day?</p>	<p style="text-align: right;">Page 271</p> <p>1 would have selected from or how it would</p> <p>2 have been done?</p> <p>3 A. I didn't know anything about</p> <p>4 the process at all.</p> <p>5 Q. And you didn't show up to find</p> <p>6 out?</p> <p>7 A. No, sir. Like I said, I had</p> <p>8 to work. I couldn't take a chance on losing</p> <p>9 a job that I had gotten through a friend to</p> <p>10 try and look, maybe possibly one in a</p> <p>11 million shot getting a job back that I had</p> <p>12 been fired from.</p> <p>13 Q. You never called Rob Clevenger</p> <p>14 that morning before you went to work to tell</p> <p>15 him you couldn't make it?</p> <p>16 A. No, sir.</p> <p>17 Q. And you never called him</p> <p>18 since, did you?</p> <p>19 A. No, sir.</p> <p>20 Q. Are you aware of any other</p> <p>21 process at Hyundai that might possibly allow</p> <p>22 you to get your job back, other than this</p> <p>23 team member review process?</p>
<p style="text-align: right;">Page 270</p> <p>1 A. I may have. I don't know.</p> <p>2 Q. All right. Do you remember</p> <p>3 returning that call before March the 5th?</p> <p>4 A. I don't know. I don't recall.</p> <p>5 Q. All right. Do you remember</p> <p>6 returning that call before March the 7th?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. And, again, was it your</p> <p>9 understanding when you received this letter</p> <p>10 marked Exhibit 7, that the -- you were</p> <p>11 supposed to meet with Rob Clevenger on that</p> <p>12 Monday morning to talk about the review</p> <p>13 process?</p> <p>14 A. Yes, sir. That wasn't a</p> <p>15 guarantee that I was going to get a job</p> <p>16 back. That was just a selected panel to see</p> <p>17 about getting the job back, to go back into</p> <p>18 the firing.</p> <p>19 Q. Did you know how the panel</p> <p>20 selection process worked?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you know whether it would</p> <p>23 have been a panel of your peers that you</p>	<p style="text-align: right;">Page 272</p> <p>1 A. I don't know. I don't know</p> <p>2 what they have.</p> <p>3 Q. Okay. But the one you did</p> <p>4 know of, you didn't use, did you?</p> <p>5 A. At that point, no, sir. Like</p> <p>6 I said, I had a family to feed. I can't</p> <p>7 afford to lose one job for a job I had been</p> <p>8 fired from already. If I'd have left that</p> <p>9 job to try and get that review back, I might</p> <p>10 not have got another job.</p> <p>11 (Whereupon, Defendant's</p> <p>12 Exhibit No. 8 was marked</p> <p>13 for identification.)</p> <p>14 Q. Let's mark this as Exhibit 8.</p> <p>15 And this is Dees 3.</p> <p>16 Mr. Dees, have you had a</p> <p>17 chance to look at Exhibit 8?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. Are you familiar with</p> <p>20 that exhibit?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. Tell me what it is.</p> <p>23 A. It's a yearly training</p>

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1 calendar schedule for my unit.
 2 **Q. For a period beginning October**
 3 **2006?**
 4 A. Yes, sir.
 5 **Q. Is this -- We talked earlier**
 6 **about y'all get a training schedule on an**
 7 **annual basis. Was this what you were**
 8 **talking about there?**
 9 A. Yes, sir.
 10 **Q. Okay. Would this -- Am I**
 11 **correct that this would show all training**
 12 **dates beginning October 21 of '06 through**
 13 **that training year?**
 14 A. When this schedule was made,
 15 yes, sir. They were subject to change and
 16 subject to be added to and taken from.
 17 **Q. Okay. Do you know if from**
 18 **October 21st going forward, it was in fact**
 19 **changed, added to, or subtracted from?**
 20 A. You'd have to call my unit and
 21 ask them.
 22 **Q. Again, I'm asking you if you**
 23 **know.**

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1 A. I don't remember. It may
 2 have, may not have been. I don't know.
 3 **Q. Okay. Do you know -- You'd**
 4 **indicated there was sort of an initial point**
 5 **at which Greg Prater demanded orders. Do**
 6 **you know if any of the -- if any of these**
 7 **are the dates that he demanded orders for?**
 8 A. Probably several of them.
 9 **Q. You think more than one**
 10 **possibly?**
 11 A. It had to have been October.
 12 Like I said, it was several, several months.
 13 (Whereupon, Defendant's
 14 Exhibit No. 9 was marked
 15 for identification.)
 16 **Q. Okay. And let's go ahead,**
 17 **just so you can have both documents, also**
 18 **mark as Exhibit 9, your '05 schedule.**
 19 A. This is an '06 schedule. It
 20 says '06 on top.
 21 MR. SPORT: I was wondering
 22 where you got the '05, because I don't have
 23 it.

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1 MR. JOHNSON: It's Dees 4.
 2 A. You got 1 October 05 in the
 3 upper right-hand corner, but your month and
 4 dates say '06. This is the company training
 5 schedule, this is my detachment training
 6 schedule.
 7 **Q. Okay. Let me make sure.**
 8 MR. SPORT: So somewhere on
 9 this document is an error, we just don't
 10 know what it is. It's either in the dates
 11 or it's on the date of the document. We
 12 don't know what it is.
 13 A. This one has company
 14 commander's signature (indicating), this one
 15 has my detachment commander's signature
 16 (indicating).
 17 **Q. All right. Well, let me get**
 18 **these marked and we'll talk through them and**
 19 **figure out what they show.**
 20 All right. So if we look at
 21 -- What we've marked Exhibit 9, that shows a
 22 date of October 1, of '05, but it has drill
 23 dates in '06; correct?

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1 A. Yes, sir.
 2 **Q. Does that -- Does that make**
 3 **sense to you?**
 4 A. No. I mean, I don't know.
 5 You'll have to call my unit and ask them.
 6 **Q. Okay.**
 7 A. That would be Sergeant Barnes.
 8 **Q. Look at the fax numbers there**
 9 **at the top. Do you recognize any of those**
 10 **fax numbers?**
 11 A. Yes, sir.
 12 **Q. What is the -- Do you**
 13 **recognize the 334-366-5278?**
 14 A. Yes, sir. That's to my wife.
 15 **Q. That's to your wife?**
 16 A. Yes, sir.
 17 **Q. And the date of that fax**
 18 **letter is March 26 of '07; correct?**
 19 A. Yes, sir.
 20 MR. SPORT: Matt, if I can
 21 interrupt you.
 22 MR. JOHNSON: Sure.
 23 MR. SPORT: It appears those

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<p>1 two pages, page three and four, are pages 2 three and four of a fax that starts with 3 Dees 1 and 2, which you've already marked 4 earlier as Exhibit whatever. 5 MR. JOHNSON: Okay. 6 MR. SPORT: So it appears on 7 March 26th, Sergeant Barnes faxed all four 8 of those pages. And Dees 5 is simply the 9 original of the fax version of Dees 3. I 10 don't know if that clears anything up, but 11 that's the way it appears. 12 Q. Okay. Well, let's go back on 13 the Record. 14 Just so I can make sure, if we 15 look at Exhibit 6 and Exhibit -- I'm sorry, 16 Exhibit 8 and Exhibit 9, the 334-366-5278 17 fax number is to your wife; correct? 18 A. Yes, sir. 19 Q. And the date is March the 20 26th? 21 A. Same day as the letter. 22 Q. Same day as the letter, which 23 we previously marked as Exhibit 5. So if</p>	<p>1 A. Company commander is over the 2 detachment commander, we fall under the 3 company. 4 Q. So would Shawn Dall have been 5 higher up the chain of command than Kevin 6 Smith? 7 A. No, sir. 8 Q. I got it backwards? 9 A. Yes, sir. Company is down in 10 Fairhope, we're up in Brewton. 11 Q. Why would orders come from two 12 different places? Would they not always 13 come from the same place? 14 A. That's not orders. That's 15 just the schedule. 16 Q. Why would the schedule come 17 from two different places? 18 A. Because we're not in the same 19 building as the company. Our company is 20 down in Fairhope, we're up in Brewton. 21 We're in two separate locations. 22 Q. Okay. Now, what is the -- and 23 the company is the 1165th Detachment 1?</p>
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<p>1 you'd look -- hold Exhibit 5 up there for 2 just a second. 3 A. (Witness complies.) 4 Q. All right. So, Mr. Dees, does 5 it make sense to you that Exhibit 5 goes 6 along with Exhibit 8 and 9, as a single fax? 7 A. Yes, sir. 8 Q. Okay. And it was sent from 9 the National Guard unit? 10 A. Yes, sir. 11 Q. Were you there on March the 12 26th of '07? 13 A. No, sir. I don't believe. I 14 believe that was a weekday. 15 Q. Okay. 16 A. And if it was, I was at work. 17 Q. And who is Kevin Smith? 18 A. Company commander. 19 Q. And who is Shawn C. Dall? 20 A. Detachment commander. 21 Q. Okay. What's the difference 22 between company commander and the detachment 23 commander?</p>	<p>1 A. We're Detachment 1, 3rd 2 Platoon, 1165th Military Police Company. 3 Q. Okay. So does the training 4 schedule ordinarily come from the detachment 5 or from the company? 6 A. That depends on the CO, what 7 he wants, what he tells that lieutenant to 8 do. 9 Q. Okay. And the CO being who? 10 A. CO being Lieutenant Smith, 11 which is no longer the CO. 12 Q. Who is now? 13 A. Captain Payne. 14 Q. What's his first name? 15 A. Captain. 16 Q. Or her first name? 17 A. I don't know. 18 Q. And Captain Payne is in 19 Fairhope? 20 A. Yes, sir. 21 Q. Did you keep records of your 22 training schedule? 23 A. I have one posted on my</p>

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<p style="text-align: right;">Page 281</p> <p>1 refrigerator at the house.</p> <p>2 Q. All right. Did you keep it</p> <p>3 for '06?</p> <p>4 A. Do I have it now is what</p> <p>5 you're saying?</p> <p>6 Q. Yes.</p> <p>7 A. Whatever this current year's</p> <p>8 training schedule is on my refrigerator,</p> <p>9 yes.</p> <p>10 Q. All right. But --</p> <p>11 A. Did I keep them from the</p> <p>12 previous?</p> <p>13 Q. Right.</p> <p>14 A. No.</p> <p>15 Q. Okay. Do you have -- Do you</p> <p>16 have a training schedule for the period</p> <p>17 beginning the first part of '07? Will that</p> <p>18 -- I assume that's Exhibit 8 here?</p> <p>19 A. Yes, sir. My company went to</p> <p>20 Fort McClellan for AT this summer, and I</p> <p>21 went this year and I went to Belize for AT.</p> <p>22 Q. AT being annual training?</p> <p>23 A. Annual training.</p>	<p style="text-align: right;">Page 283</p> <p>1 Q. I want to mark those as</p> <p>2 Exhibit 10.</p> <p>3 (Whereupon, Defendant's</p> <p>4 Exhibit No. 10 was marked</p> <p>5 for identification.)</p> <p>6 MR. SPORT: Matt, do I</p> <p>7 understand you'd like me to get you a little</p> <p>8 more legible copy than that?</p> <p>9 MR. JOHNSON: Yes.</p> <p>10 MR. SPORT: I'll scan it and</p> <p>11 e-mail it to you.</p> <p>12 MR. JOHNSON: That would be</p> <p>13 great. I would appreciate that.</p> <p>14 Q. Mr. Dees, let me let you look</p> <p>15 at Exhibit 10. Unfortunately we're going to</p> <p>16 have to share a little bit on Exhibit 10,</p> <p>17 because it's the only copy we've got -- or</p> <p>18 it's the only copy I've got.</p> <p>19 MR. JOHNSON: Do we have</p> <p>20 another copy? Doesn't matter. Just so I</p> <p>21 understand, has any portion of this been</p> <p>22 redacted, Jeff?</p> <p>23 MR. SPORT: Yes.</p>
<p style="text-align: right;">Page 282</p> <p>1 Q. And where did that take place</p> <p>2 -- I mean when did that take place?</p> <p>3 A. 12 May through 26 May.</p> <p>4 Q. And the training that you were</p> <p>5 just on?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Tell me what that was called</p> <p>8 again.</p> <p>9 A. Basic Noncommissioned Officers</p> <p>10 Course Phase II and III.</p> <p>11 Q. And was your current employer</p> <p>12 aware you were going on that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And is your current employer</p> <p>15 aware that you are back?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Is your current</p> <p>18 employer aware that you are here today?</p> <p>19 A. Yes, sir.</p> <p>20 Q. We've gotten a copy of some</p> <p>21 cell phone records from your attorneys that</p> <p>22 were faxed to us here today.</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 284</p> <p>1 MR. JOHNSON: Do you know</p> <p>2 which portion has been redacted?</p> <p>3 MR. SPORT: Account number and</p> <p>4 carrier.</p> <p>5 MR. JOHNSON: I can see where</p> <p>6 account number is redacted, invoice number</p> <p>7 is redacted --</p> <p>8 MR. SPORT: And the carrier's</p> <p>9 name appears on the page and we redacted</p> <p>10 that. All the phone call information --</p> <p>11 MR. JOHNSON: You mean who</p> <p>12 provided the cell phone service?</p> <p>13 MR. SPORT: Yes.</p> <p>14 MR. JOHNSON: You mean you're</p> <p>15 not going to tell us who he got his cell</p> <p>16 phone from?</p> <p>17 MR. SPORT: I don't think</p> <p>18 you're entitled to it.</p> <p>19 MR. JOHNSON: Well, I'm going</p> <p>20 to ask him about it, and we can argue about</p> <p>21 that later.</p> <p>22 It also suggests here under</p> <p>23 detail for Leon, it says 334, did you redact</p>

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<p style="text-align: right;">Page 285</p> <p>1 his cell phone number?</p> <p>2 MR. SPORT: Yes.</p> <p>3 MR. JOHNSON: Are you not</p> <p>4 wanting us to know what cell phone number he</p> <p>5 used? I mean was it redacted on purpose?</p> <p>6 MR. SPORT: Yes.</p> <p>7 MR. JOHNSON: What was the</p> <p>8 purpose?</p> <p>9 MR. SPORT: We originally</p> <p>10 objected to it because of privacy reasons.</p> <p>11 It does have something -- The calls made</p> <p>12 around the date in question do have</p> <p>13 something to do with the case, so we</p> <p>14 produced that page, we just don't feel</p> <p>15 you're entitled to the rest of the</p> <p>16 information.</p> <p>17 Q. Okay. I'm going to ask you</p> <p>18 questions now about Exhibit Number 10.</p> <p>19 Mr. Dees, am I correct that it's your</p> <p>20 testimony today and previously that on the</p> <p>21 night in question, when Jim Brookshire saw</p> <p>22 you up on the third level, you were using</p> <p>23 your phone to send a text message to your</p>	<p style="text-align: right;">Page 287</p> <p>1 A. 13th, February 13th and 14th.</p> <p>2 Q. Okay. And you see a telephone</p> <p>3 call coming in on the 13th?</p> <p>4 A. I don't remember what day --</p> <p>5 What day are you talking about? What day</p> <p>6 are you wanting?</p> <p>7 Q. Well, what I understand to be</p> <p>8 the case, and subject to your agreement or</p> <p>9 disagreement, was that, at least according</p> <p>10 to the witness statements, Jim Brookshire</p> <p>11 saw you in the third level at approximately</p> <p>12 one a.m. on February 14th. So you would</p> <p>13 have been coming to work on the 13th, I</p> <p>14 assume.</p> <p>15 MR. KILBORN: Say that again.</p> <p>16 MR. JOHNSON: He was seen on</p> <p>17 February 14th and would have been -- started</p> <p>18 work on the afternoon or dinnertime on the</p> <p>19 13th.</p> <p>20 A. That's going to be it there,</p> <p>21 the Birmingham, Alabama. 671, whatever it</p> <p>22 is, six-something p.m.</p> <p>23 Q. Say that again.</p>
<p style="text-align: right;">Page 286</p> <p>1 daughter?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And what was the text message</p> <p>4 about?</p> <p>5 A. To let her know that I was</p> <p>6 okay.</p> <p>7 Q. Would there be any reason you</p> <p>8 would not be okay?</p> <p>9 A. Well, she was worried.</p> <p>10 Q. Well, when you say she was</p> <p>11 worried, how do you know she was worried?</p> <p>12 A. Because she called me before I</p> <p>13 got to work on my way to work, I believe.</p> <p>14 Q. Okay. You think she called</p> <p>15 you on your cell phone?</p> <p>16 A. Yes, sir. I believe it's on</p> <p>17 there.</p> <p>18 Q. All right. If you can, show</p> <p>19 me where that is.</p> <p>20 A. I can't for my life make out</p> <p>21 -- I don't know. I see the 14:45, incoming.</p> <p>22 Q. All right. What is the date</p> <p>23 you're looking at?</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Right here (indicating),</p> <p>2 whatever this is here. There's two or</p> <p>3 three. It looks like my wife called or</p> <p>4 either the youngest daughter called from the</p> <p>5 house.</p> <p>6 Q. Are you looking on the 13th</p> <p>7 there?</p> <p>8 A. These right here (indicating).</p> <p>9 Q. The 5:23 p.m., I'm assuming</p> <p>10 that's what that says.</p> <p>11 A. Yeah.</p> <p>12 Q. And then six --</p> <p>13 A. Let's see. I start -- I think</p> <p>14 it's these two (indicating), from what I can</p> <p>15 see. I don't -- Six something, I don't know</p> <p>16 what that is.</p> <p>17 Q. All right. Well, let's just</p> <p>18 -- we'll break this thing out -- it says --</p> <p>19 the dotted lines going across, there's seven</p> <p>20 -- this is in the seventh area between the</p> <p>21 dotted lines.</p> <p>22 A. That's the Birmingham call</p> <p>23 there.</p>

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<p style="text-align: right;">Page 289</p> <p>1 Q. All right. The Birmingham 2 call from, and is that 205-389-5974? 3 A. Yes, sir, I believe that's it. 4 Q. All right. Whose number is 5 that? 6 A. That's one of her friends. 7 Q. That's one of your daughter's 8 friends? 9 A. Yes. 10 Q. So you think that was your 11 daughter calling from Birmingham? 12 A. They was down in the basement. 13 She had left her phone in the room. 14 Q. Okay. 15 A. They put them down in the 16 basement because of the weather. 17 Q. Okay. And the call right 18 before that, from a 334 number in 19 Maplesville, is that your home number or 20 your wife's number? 21 A. That's my home number. 22 Q. Okay. And then the next 23 number from Maplesville, I'm assuming that's</p>	<p style="text-align: right;">Page 291</p> <p>1 Q. Okay. Let me ask you here. 2 Looks like on February 14th, there's a 3 couple of incoming calls from -- I'm 4 guessing that's 334-419-1445? 5 A. That's my number. It says 6 incoming. I don't know who it was. 7 Q. That's your home phone number? 8 A. No, sir. That's my cell 9 number. I don't know who was calling. I 10 don't know. It just lists it as an incoming 11 call. 12 Q. Well, on your cell phone 13 records does it list as an incoming call -- 14 A. It's listed there as an 15 incoming call. 16 Q. I'm just trying to figure out, 17 it looks to me -- I'm just trying to read 18 your records, does it not make more sense 19 that the calls to Maplesville and Birmingham 20 were calls that were made by you to somebody 21 else? 22 A. No, sir. Like this here 23 (indicating), it lists my number, that means</p>
<p style="text-align: right;">Page 290</p> <p>1 also your home number? 2 A. Yes, sir. 3 Q. Okay. Can you read what time 4 that came in to you? 5 A. I have no idea. 6 Q. Okay. 7 A. Something P, twenty-eight P. 8 Q. All right. Now, do you carry 9 your personal cell phone with you when you 10 were in the plant? 11 A. Yes, sir. 12 Q. All the time? 13 A. Reason being, those radios -- 14 like I said, those radios, sometimes they 15 work, sometimes they didn't. A lot of times 16 we would -- Prater told us if we had a 17 breakdown over five or ten minutes, to call 18 him at home, no matter what time of the 19 night it was. And we got called by him on 20 our personal phones that we paid for the 21 calls a lot of times on breakdowns. I even 22 had to call Mr. Moon several times on 23 breakdowns.</p>	<p style="text-align: right;">Page 292</p> <p>1 they don't know who the number was that 2 called me. 3 Q. Oh, okay. So is it -- is this 4 all incoming calls or does it -- On your 5 phone records, does it separately list calls 6 that you made outgoing? 7 A. I ain't never been asked 8 before, so . . . 9 Q. All right. Does it separately 10 list calls -- text messages that goes out? 11 A. It just charges you for each 12 text message. 13 Q. Okay. Does it indicate when 14 you made those text messages? 15 A. No, sir. You just get a 16 charge. 17 Q. All right. Do you still have 18 the same telephone number? 19 A. Yes, sir. 20 Q. And have you reviewed your 21 telephone to see if you still have the text 22 messages on it from this period of time? 23 A. A year ago? No, sir. I never</p>

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<p style="text-align: right;">Page 293</p> <p>1 did get through that night. The weather was 2 bad. Sometimes it could be sunny outside 3 and for some reason you may not get through, 4 you may get through. 5 Q. And just to be safe, I want to 6 make sure we're clear. When you said a year 7 ago, I'm talking about back in February of 8 this year? 9 A. All right. This is November. 10 Q. Okay. I just want to make 11 sure you were also talking about February of 12 this year. 13 A. Yes, sir. 14 Q. Okay. Do you -- Do you have 15 any idea whether your cell phone records 16 show anything about text messages incoming 17 or outgoing as per a specific time? 18 A. You get a charge, ten cents 19 per message, period. 20 Q. And what is your complete 21 telephone number, cell phone number? And I 22 promise I won't use it to call you. 23 A. If you're writing it down, I</p>	<p style="text-align: right;">Page 295</p> <p>1 be an incoming call. 2 A. If I get an incoming call and 3 it comes up unknown number, they can't get 4 the number, they put my number down. 5 Q. Okay. And what about if it's 6 an incoming call from your daughter, what 7 does it show? 8 A. That's it right there, 9 Birmingham. 10 Q. And what if you make a call to 11 your daughter in Birmingham? 12 A. Well, hold on, let me see if I 13 can find one. 14 Q. And, again, this is for your 15 attorney's benefit -- 16 A. That may have been a call to 17 her friend's phone, I don't know. 18 MR. JOHNSON: Without the 19 complete records, Mr. Sport, I'm having a 20 difficult time making heads or tails of this 21 thing. 22 MR. SPORT: What else is 23 there?</p>
<p style="text-align: right;">Page 294</p> <p>1 ain't saying it. 2 Q. I need you to say it. 3 A. 334-419-1445. I thought you 4 weren't going to write it down. 5 Q. I never said that. 6 Again, I'll make a promise to 7 you, I'm not going to give it to anybody 8 who's going to give it out. 9 MR. KILBORN: That's covered 10 by the protective order we agreed on; right? 11 MR. JOHNSON: That's fine. I 12 agree. 13 Q. Do you know if you made any 14 outgoing telephone calls on the night in 15 question? 16 A. You've got the record. 17 Q. Okay. Again, it's hard for me 18 to, one, read it; and, two, it's hard to 19 tell which is incoming and which is 20 outgoing. I mean, are -- because I think 21 what you told me earlier was that the ones 22 that say, for instance, Birmingham, Alabama, 23 isn't necessarily an outgoing call, it might</p>	<p style="text-align: right;">Page 296</p> <p>1 MR. KILBORN: Hold on. We 2 gave you what you asked for. Now, we can 3 stop there. 4 We asked to inspect the plant. 5 Somebody on the legal team took the position 6 that we were a couple days late, therefore, 7 we couldn't inspect the plant. Now, I'll 8 give you plenty more discovery which I don't 9 have to give you, as an accommodation, but I 10 expect the same. 11 MR. JOHNSON: I think you have 12 to give us his cell phone records. I was 13 trying to be gracious to you and your client 14 by not demanding them all. And I haven't 15 demanded them all. All I'm doing is saying 16 now that we're at the deposition and I can't 17 make heads nor tails of it in order to 18 examine the witness, then it's appropriate 19 for me to get. 20 MR. KILBORN: This was covered 21 by your request for production, that's why 22 we gave it to you. 23 MR. JOHNSON: I think</p>

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<p style="text-align: right;">Page 297</p> <p>1 technically, it's all covered by the request 2 for production and the protective order. 3 MR. KILBORN: What period of 4 time? 5 MR. JOHNSON: For the night in 6 question, and that would include -- 7 MR. KILBORN: That is in 8 response to the request for production. 9 MR. JOHNSON: I think it's 10 fair for me to get the whole record. You're 11 giving me one page out of -- 12 MR. SPORT: What are you 13 asking me for? 14 MR. JOHNSON: What I'm asking 15 you for is all seven pages of that invoice 16 so I can make the interpretation fairly 17 whether or not there is other information 18 that helps me to interpret the single page 19 that you've provided in a redacted version. 20 I'm not fussing at you for 21 redacting it, that's perfectly fine with me. 22 What I'd like to see is the entire invoice. 23 And I also want --</p>	<p style="text-align: right;">Page 299</p> <p>1 incident. It does not necessarily mean that 2 you're not going to give me the entire 3 invoice. 4 MR. KILBORN: I think it does. 5 I'm just telling you that I don't mind 6 discussing a fair exchange of documents, but 7 I want the same consideration and not some 8 technicality that we were two days late. 9 Let me just say this. Let me 10 look at the entire bill. I don't 11 necessarily -- I don't necessarily think 12 there's a problem, but I don't think it's 13 going to help you and here's why. I used to 14 be with a carrier that provided a bill like 15 this. My current carrier actually shows to 16 and from, so you know if it's outgoing or 17 incoming. These don't do that. But my 18 former carrier that gave me a bill identical 19 to this, this is what it means, and you can 20 make this out, kind of sort of. And when I 21 give you the cleaner copy, you'll be able to 22 see. This says number called, that's that 23 column title, this column is entitled</p>
<p style="text-align: right;">Page 298</p> <p>1 MR. KILBORN: What did you ask 2 for? 3 MR. JOHNSON: I asked for the 4 whole thing and he said he would provide me 5 records -- 6 MR. KILBORN: You did? 7 MR. JOHNSON: -- from the 8 evening in question. 9 MR. KILBORN: Will you show me 10 that request? 11 MR. JOHNSON: Okay. 12 All I can say is that by fax 13 dated August the 9th, your partner, 14 Mr. Sport, said: Your statement that we 15 agreed to, quote, produce copies of your 16 client's mobile phone records inclusive of 17 the entire shift he worked on the night in 18 question is incorrect. Rather he says: We 19 agreed to produce our client's cell phone 20 records for the time period in question 21 only. 22 All right. The time period in 23 question only would be the night of this</p>	<p style="text-align: right;">Page 300</p> <p>1 destination called. 2 When you see destination 3 called and a city, I believe that indicates 4 an outgoing call; and when there's an 5 incoming call, instead of a destination 6 city, it says incoming call. That's what I 7 believe this means. Other than contacting 8 the carrier and confirming that, I don't 9 know how the rest of the bill will help you. 10 MR. JOHNSON: Again, you 11 hadn't provided that to us, so I don't know. 12 It may not, I agree with you. But I can't 13 feel like I'm doing my job -- 14 MR. SPORT: Is that your 15 question, you want to know what's outgoing 16 and what's incoming? 17 MR. KILBORN: Let's go off the 18 Record and you and I will talk. Take a 19 break. 20 (Recess taken.) 21 (Whereupon, Defendant's 22 Exhibit No. 11 was marked 23 for identification.)</p>

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<p style="text-align: right;">Page 301</p> <p>1 Q. All right. Mr. Dees, we're 2 going back on the Record now, just so you 3 know. 4 Let me show you what I have 5 marked as Defendant's Exhibit 11. And I 6 know that you and your attorneys had an 7 opportunity to look at that just before we 8 got started; is that correct? 9 A. Yes, sir. We had just seen 10 the box before we got started? 11 Q. Right. 12 A. Yes, sir. 13 Q. And just for the Record, I 14 gave you a box of items; correct? 15 A. Yes, sir. 16 Q. And you reviewed the contents 17 of the box? 18 A. Yes, sir. 19 Q. And were the contents of the 20 box consistent with what's indicated on 21 Exhibit 11? 22 A. Yes, sir. But you got to take 23 into account, like I said, my locker was</p>	<p style="text-align: right;">Page 303</p> <p>1 that you mentioned earlier? 2 A. Yeah. I mean, I had Army pay 3 stubs in there, with my account number, 4 where my money is being sent, my social, all 5 my information pertaining to my Army -- my 6 account that my Army check goes into, and my 7 military service -- 8 Q. Did they get sent to you -- 9 A. -- notes. No, they didn't get 10 sent to me. The only thing I received since 11 I left was when you brought that box today. 12 I haven't received, I haven't heard from 13 them, nothing. 14 Q. Your Army pay stubs, were 15 those sent to you at Hyundai? Did you 16 receive your paycheck at Hyundai? 17 A. No, sir. I had it in my 18 pocket, and carried it in there, and forgot 19 it, took it out and put it in my locker. 20 Q. Is it one pay stub? 21 A. No. It's several. But like I 22 said, it had my savings account number, my 23 Social Security number, it had everything on</p>
<p style="text-align: right;">Page 302</p> <p>1 left unlocked for several months, then a 2 lock was placed on it, then a lock was taken 3 off, and then whoever -- one of y'all was 4 videoed taking the contents out of the 5 box -- 6 Q. Okay. 7 A. I mean, out of the locker. 8 Q. Okay. 9 A. I mean, there's no chain of 10 custody there. 11 Q. Okay. But I just want to make 12 sure that we're clear on the box of items 13 that was given to you today was consistent 14 with what's listed on that sheet? 15 A. You can have them back. 16 That's not my stuff on that box. The tools 17 belong to Hyundai. 18 Q. Now, let me ask you this. 19 With respect to the list of items there on 20 Exhibit Number 11, do you have any reason to 21 think at the time of your termination there 22 were other items in that locker, other than 23 the jacket that you got back and some notes</p>	<p style="text-align: right;">Page 304</p> <p>1 there. 2 Q. Your pay stubs have your 3 Social Security number on it and your 4 account number for your bank? 5 A. An Army pay stub, yes, sir, it 6 does. 7 Q. Do you have subsequent Army 8 pay stubs? 9 A. Yes, sir, somewhere. 10 Q. All right. The ones that you 11 do have, are they in the same format and 12 look just like the ones that were in your 13 locker on date of termination? 14 A. Yes, sir. It's got my rank, 15 my years of service, unit. 16 Q. And this is just a pay stub, 17 that's all we're talking about? 18 A. Yeah. There was a couple of 19 them. I mean I don't know. 20 Q. All right. 21 A. At the time, yeah, I left a 22 lot of stuff in there. That was back in 23 February. And y'all show up with stuff that</p>

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<p style="text-align: right;">Page 305</p> <p>1 don't even belong to me. That stuff there 2 belonged to Hyundai. You can carry it back 3 to them. My personal stuff, they left. 4 Prater went in, left my tool 5 bag, everything out there, everything in my 6 locker, and brought me that jacket with that 7 little MP3 player and my notes was missing 8 and everything is -- and this here, I can't 9 even read hardly. 10 Q. I'm trying to figure out what 11 else you had in your locker, other than 12 what's on that list, the MP3 player, the 13 notes, the pay stubs, and the jacket. Can 14 you think of anything? 15 A. No, sir. 16 Q. Was there anything else of 17 value in that locker? 18 A. I don't know. 19 Q. Okay. 20 A. I don't know. 21 Q. Now, how many Army pay stubs 22 would there have been? 23 A. There was two or three.</p>	<p style="text-align: right;">Page 307</p> <p>1 come with an actual check? 2 A. No, sir. 3 Q. And is it on a 4 eight-and-a-half-by-eleven, normal sheet of 5 paper size thing? 6 A. Yes, sir. 7 Q. And I assume, like regular pay 8 stubs, it shows, you know, what your gross 9 is, what they took out, what they withheld 10 for taxes, and that kind of stuff? 11 A. Yes, sir. 12 Q. Okay. Anything else you can 13 think of that was in your locker? 14 A. I don't know. I hadn't 15 thought about it today. 16 Q. All right. Well, have you 17 thought about it before today? 18 A. A while back, after I'd gotten 19 fired, yes, sir, I did. 20 Q. All right. Did you write down 21 what you thought was in your locker at that 22 point in time, take notes on it? 23 A. No, sir, I did not. I was</p>
<p style="text-align: right;">Page 306</p> <p>1 Q. Two or three? 2 A. Yes, sir. 3 Q. Okay. And do you know what 4 months they were for? 5 A. No, sir. 6 Q. Do you remember when you put 7 them in your locker? 8 A. No, sir. 9 Q. Do you remember how long they 10 were in your locker? 11 A. No, sir. 12 Q. Do you remember showing them 13 to anybody or talking to anybody about it? 14 A. No, sir. 15 Q. And when you say pay stubs, 16 are they literally pay stubs where you tear 17 the check off the bottom half? 18 A. No, sir. It's a computer 19 printout. 20 Q. Okay. It just shows what was 21 direct deposited into your account? 22 A. Yes, sir. 23 Q. Okay. So it doesn't actually</p>	<p style="text-align: right;">Page 308</p> <p>1 flustered, I was mad. 2 Q. Does being mad make you not 3 take notes? 4 A. No, sir. That didn't have 5 nothing to do with me not taking notes. 6 Q. Okay. 7 A. That had everything to do with 8 me being flustered and mad because I had 9 gotten fired for somebody recommending that 10 I be fired, off of a recommendation that he 11 had made. It's right there in your letter 12 that you had, that he recommended it. 13 Q. What are you talking about? 14 A. Prater. He recommended it. 15 Q. I know what you're talking 16 about. But you're referring to Prater? 17 A. Yeah. It said he recommended 18 it: Based on this conversation, I feel that 19 even if he were not sleeping, that he 20 doesn't care enough about his job to defend 21 anyone from thinking he was sleeping. John, 22 my recommendation is termination. 23 Q. What exhibit are you referring</p>

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<p>1 to?</p> <p>2 A. Number 6.</p> <p>3 (Whereupon, Defendant's</p> <p>4 Exhibit No. 12 was marked</p> <p>5 for identification.)</p> <p>6 Q. Okay. Let me show you what</p> <p>7 we've marked as Exhibit 12, and that's Dees</p> <p>8 versus HMMA number 6, deposition Exhibit 12.</p> <p>9 A. Where is 9? Or have I got</p> <p>10 them. I got them backwards. Hold on.</p> <p>11 Q. Do you recognize that</p> <p>12 document, Mr. Dees?</p> <p>13 A. I've never seen this document.</p> <p>14 Q. You've never seen that</p> <p>15 document?</p> <p>16 Is it your testimony you've</p> <p>17 never seen that?</p> <p>18 A. Not until -- I believe I saw</p> <p>19 it yesterday, but prior to that, no, I'd</p> <p>20 never seen this document.</p> <p>21 Q. You indicated that when you</p> <p>22 met with Wendy Warner and some others at the</p> <p>23 time of your termination, Wendy Warner had a</p>	<p>1 HMMA management in the third floor overhead</p> <p>2 sleeping. HMMA policy states, quote,</p> <p>3 serious and excessive violations of HMMA's</p> <p>4 performance standards, end quote, is a</p> <p>5 serious misconduct violation.</p> <p>6 I won't read the whole thing,</p> <p>7 but since you're looking at Exhibit 12, what</p> <p>8 you're reading there, is that consistent</p> <p>9 with what she read to you?</p> <p>10 A. I don't know. Like I said, I</p> <p>11 had been floored. The only thing I heard</p> <p>12 was sleeping and terminated immediately, and</p> <p>13 I couldn't believe it.</p> <p>14 Q. Okay.</p> <p>15 A. I mean, that was --</p> <p>16 Q. Do you -- Just so I can make</p> <p>17 sure that the Record is clear, what does</p> <p>18 cleaning the pit involve?</p> <p>19 A. Cleaning the pit involves</p> <p>20 picking all the scrap up around the</p> <p>21 conveyors that's fallen while the presses</p> <p>22 are running. And you have a -- It's very</p> <p>23 dangerous because you're doing it, you're</p>
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<p>1 piece of paper that as you testified,</p> <p>2 slammed it on the table?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did you read that document?</p> <p>5 A. No, sir, I didn't read it.</p> <p>6 She read a document that she had in her hand</p> <p>7 that she was holding up at an angle that she</p> <p>8 could see. I was sitting across the table</p> <p>9 from her. She read the document, she</p> <p>10 finished it, placed it face down on the</p> <p>11 table like that (indicating).</p> <p>12 Q. Do you remember anything about</p> <p>13 what she read out loud to you?</p> <p>14 A. Just that I had been accused</p> <p>15 of sleeping and I was being terminated</p> <p>16 immediately.</p> <p>17 Q. All right. Was that on</p> <p>18 February 26th?</p> <p>19 A. That was it.</p> <p>20 Q. Do you remember if the letter</p> <p>21 said anything like this: Dear Leon, it has</p> <p>22 been brought to my attention on February</p> <p>23 14th, 2007, you were found by a member of</p>	<p>1 down there, you have no communication, if</p> <p>2 anything happens to you, you're there until</p> <p>3 someone decides to come looking for you.</p> <p>4 Q. Would you go there without</p> <p>5 telling somebody you're in it?</p> <p>6 A. I wouldn't go there unless</p> <p>7 told to go there.</p> <p>8 Q. Would the -- Are the -- You</p> <p>9 say the presses are running when you're down</p> <p>10 there?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And I want to make sure I</p> <p>13 understand. I mean, the presses aren't some</p> <p>14 giant thing that comes down and stamps where</p> <p>15 you're actually standing when you're</p> <p>16 cleaning out the pit, is it?</p> <p>17 A. No, sir. But the scraps are</p> <p>18 falling down where you're actually standing.</p> <p>19 I mean, it's falling onto a metal conveyor,</p> <p>20 but the reason you're having to go clean the</p> <p>21 pit is because it bounces out of that</p> <p>22 conveyor onto the floor. And you do -- you</p> <p>23 get stuck. You've got little protective</p>

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<p style="text-align: right;">Page 313</p> <p>1 gloves, but it only covers your forearms and 2 your hands, everything else is fair game. 3 Q. But what we're talking about 4 is picking up or removing, essentially, 5 debris from the stamping equipment that 6 comes off a conveyor belt? 7 A. No, sir. We're talking about 8 putting yourself in a hazardous situation 9 with scrap falling thirty foot into a chute, 10 bouncing off a metal conveyor, coming down 11 right beside your head, your back, your 12 neck, everything else that's exposed. And 13 the gloves you're wearing is only cut 14 resistant, not cut proof. 15 Q. Do you have any reason to 16 think that working in the pit is 17 unreasonably dangerous or inappropriate? 18 A. It's very dangerous. Like I 19 said, you got sharp steel coming down 20 through these chutes, sheet metal, some of 21 it is perfectly square corners, some of it 22 comes out to a razor point. And that's the 23 reason you're cleaning it, because it</p>	<p style="text-align: right;">Page 315</p> <p>1 Q. Did you ever see -- Do y'all 2 have a nurse or doctor on site at the plant? 3 A. Yes, sir. But you was 4 discouraged from going there. 5 Q. Did you ever get hurt and go 6 there? 7 A. No, sir, I never went there. 8 Q. Okay. 9 A. If I got a cut, I covered it 10 up and I drove home. 11 Q. Did you ever file any 12 complaints to anybody in management about 13 the pit? 14 A. Yes, sir, I did. Several 15 times. 16 Q. Who was that? 17 A. I went to HR and Applegate. 18 Q. Did you file any written 19 complaints? 20 A. No, sir. Like I said, they 21 didn't have a format or process for filing 22 written complaints. 23 Q. Okay. When you talked to</p>
<p style="text-align: right;">Page 314</p> <p>1 doesn't stay in the conveyor, it bounces out 2 all over the place. And if you get hit by 3 it, you get cut no matter what you're 4 wearing. 5 Q. To your knowledge, has anybody 6 been injured because of the pit? 7 A. Several people has been -- 8 Well, I believe somebody has. I don't 9 remember who it was. 10 Q. You don't recall? 11 A. No. 12 Q. Okay. 13 A. The metal is very sharp. 14 They've got numerous instances of people 15 getting cut by that metal. 16 Q. Is there -- Did you ever get 17 cut by the metal? 18 A. I got -- Yes, sir. Not bad 19 cuts where I had to have stitches, no. 20 Q. Did you file any sort of 21 worker's comp claim or report an injury or 22 anything like that? 23 A. No, sir.</p>	<p style="text-align: right;">Page 316</p> <p>1 Applegate, what did he say about the pit? 2 A. Like I said this morning, he 3 said it all pays the same, what's your 4 problem. 5 Q. Who did you talk to in HR 6 about the pit? 7 A. I believe it was Keisha. 8 Q. Keisha. And what did she say 9 about the pit? 10 A. She said she would get with 11 Applegate and Prater. The next thing I know 12 I'm going to talk to Applegate. 13 Q. Okay. Do you have any reason 14 to think you've been discriminated against 15 or harassed for any other protected 16 characteristic like sex, age, race? 17 A. Everything stems around my 18 military career, everything. Like I say, it 19 all started with harassment about my orders. 20 Everything had to do with my weekend drill, 21 all the way from Prater to HR. Every time 22 I'd go to them, the letter from my unit, the 23 e-mail, everything all the way to the</p>

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<p style="text-align: right;">Page 317</p> <p>1 recommendation for Prater saying I recommend 2 him for termination, everything stemmed 3 around my Guard duty. 4 Q. Okay. And so I'm assuming 5 that since you're saying everything stems 6 from your Guard duty, I'm assuming it would 7 be safe to rule out any other issues, like 8 age, race, sex, religion, anything like 9 that? 10 A. I reckon. 11 Q. You would agree? 12 A. I mean, I don't know what -- 13 Q. Let me ask you this -- 14 A. Like I said, everything come 15 from my Guard duty. As far as to my 16 knowledge, everything from the beginning 17 from when it started, to the end, to my 18 knowledge, seemed like it come from my Guard 19 duty and my commitment to the Guard. 20 Q. Let me ask you some pretty 21 simple questions. Were you terminated 22 because of your age? 23 A. Well, they say I was</p>	<p style="text-align: right;">Page 319</p> <p>1 just want to rule out that there's no other 2 lawsuits coming in the future related to 3 this. 4 MR. KILBORN: You're not. 5 That's guaranteed. 6 MR. JOHNSON: Okay. 7 Q. And when did you first start 8 taking notes about the harassment issues? 9 A. The very first time it 10 happened. 11 Q. The very first time? 12 A. Yes, sir. 13 Q. Okay. And did you ever show 14 your notes to any of your coworkers? 15 A. We went through this this 16 morning. 17 Q. That's right. Did you ever 18 show them to anybody in HR? 19 A. No, sir. 20 Q. And would it be fair to state 21 that -- 22 A. I never showed them to no one 23 in HR, but I made the complaints from my</p>
<p style="text-align: right;">Page 318</p> <p>1 terminated because I was sleeping. But, 2 like I say, that all started because of my 3 Guard duty. 4 Q. Are you saying you were 5 terminated because of your age? 6 A. I'm not saying anything. I'm 7 saying I was terminated because of my Guard 8 duty is what I'm saying. 9 Q. Were you discriminated against 10 because of your age? 11 A. Like I said before, I believe 12 I was terminated against because of my Guard 13 duty service. 14 Q. Were you discriminated against 15 because of your age? 16 A. I have no idea. 17 Q. Is that a yes or no, were you 18 or weren't you? 19 MR. KILBORN: Don't raise your 20 voice. We're not suing over any type of 21 discrimination other than the circumstances 22 that we sued over. 23 MR. JOHNSON: I agree. And I</p>	<p style="text-align: right;">Page 320</p> <p>1 notes to HR. When I went to HR, I discussed 2 what was on my notes. 3 Q. Okay. 4 A. Did I pull them out and show 5 them to them? No. 6 Q. Other than with respect to 7 your military service, how was your 8 relationship with Greg Prater? 9 A. He was my boss, I was the 10 employee. 11 Q. I mean, was he a good boss? 12 A. No. 13 Q. Why not? 14 A. I mean, well, you talked to my 15 coworkers. 16 Q. I'm talking to you now. 17 A. He has no supervisory skills. 18 Q. Okay. What makes you say 19 that? 20 A. His mismanagement of funds, 21 his mismanagement of time. 22 Q. Mismanagement of funds, how? 23 A. Not ordering parts, then when</p>

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<p style="text-align: right;">Page 321</p> <p>1 he ordered parts, he ordered too many of the 2 wrong thing and not having money to order 3 the right parts. 4 Q. Mismanagement of time, how is 5 that? 6 A. Scheduling people to come in 7 on the weekend to work and not having the 8 parts there to do the job. 9 Q. Did you have any problems with 10 Greg Prater because of that? Did you tell 11 him he was a bad manager? 12 A. No, sir. It wasn't my job. 13 Q. Did you ever suggest to him 14 that he wasn't a good manager? 15 A. No, sir. I was being paid to 16 do a job, and I did the job I was paid to 17 do. 18 Q. Did you ever indicate to him 19 that he didn't do his job well? 20 A. No, sir. 21 Q. Okay. 22 A. Several others did, but not 23 me.</p>	<p style="text-align: right;">Page 323</p> <p>1 Barnes got sent? 2 A. Yes, sir. That's why I had 3 Sergeant Barnes send the letter. That's why 4 I made a complaint to my unit, and Sergeant 5 Richberg made the recommendation. 6 Q. Okay. 7 A. Like I said earlier, the only 8 thing HR was concerned about was he told us 9 we couldn't talk to them. They could care 10 less whether his harassment about my Guard 11 service or not. 12 Q. All right. How was Greg 13 Prater viewed by your coworkers? 14 A. You'll have to ask them that. 15 Q. Well, did they ever say 16 anything to you about what they thought of 17 him? 18 A. Yeah. 19 Q. What did they say? 20 A. I don't remember specific 21 quotes. He wasn't very popular. 22 Q. Okay. Did he have specific 23 problems with anybody?</p>
<p style="text-align: right;">Page 322</p> <p>1 Q. Not you? You never did? 2 A. No, sir. 3 Q. Okay. Now, before the letter 4 was sent from Sergeant Barnes, back in 5 October — 6 A. Yes, sir. 7 Q. — did you have any problems 8 with Greg Prater? 9 A. That's the reason the letter 10 was sent. 11 Q. Okay. And prior to that time 12 in October, can you think — do you have any 13 idea how many times you had issues with Greg 14 Prater? 15 A. I don't know. 16 Q. Was it one instance and then 17 Sergeant Barnes — you had Sergeant Barnes 18 send that letter? 19 A. No, sir. If it had been one 20 incident, I wouldn't have sent it. I don't 21 hit the panic button for no reason. 22 Q. Had you gone to human 23 resources before the letter from Sergeant</p>	<p style="text-align: right;">Page 324</p> <p>1 A. You'll have to ask them that. 2 I can't testify as to their problems they 3 had with or without him. I don't know. 4 Q. Do you remember anything any 5 of your coworkers ever said about problems 6 they were having with Prater? 7 A. No, sir. 8 Q. Do you recall any of your 9 coworkers ever arguing with Prater in your 10 presence? 11 A. Well, that very first day we 12 went to HR, everybody was arguing with him. 13 Q. About what? 14 A. When he told us we couldn't go 15 to HR. And Chris Weihe jumped on him about 16 making fun of my military career and about 17 harassing me about my military career. 18 Q. What did Chris say? 19 A. I don't remember exact words. 20 I don't know. 21 Q. Were you there when he said 22 them? 23 A. Oh, yeah, we was there. The</p>

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<p style="text-align: right;">Page 325</p> <p>1 whole shift was there.</p> <p>2 Q. Do you remember approximately</p> <p>3 what Chris said?</p> <p>4 A. No. That was over a year ago.</p> <p>5 Q. Okay. Can you think of</p> <p>6 anybody other than Chris Weihe that might</p> <p>7 have said something to Prater about your</p> <p>8 military service?</p> <p>9 A. Some of the fellows on the</p> <p>10 other shift said they did, I don't know.</p> <p>11 Q. Do you know if Chris Weihe is</p> <p>12 still working at the plant?</p> <p>13 A. Yes, he is.</p> <p>14 Q. He hasn't been terminated for</p> <p>15 taking up for you or anything like that?</p> <p>16 A. No. Well, I take that back,</p> <p>17 Drake and -- Who is it? I think it was</p> <p>18 Drake and Hanks both said something to him.</p> <p>19 Q. To who?</p> <p>20 A. Prater.</p> <p>21 Q. Do you know what they said?</p> <p>22 A. No.</p> <p>23 Q. Were you there when they said</p>	<p style="text-align: right;">Page 327</p> <p>1 basically a ruse, a joke.</p> <p>2 Q. How did he say that?</p> <p>3 A. Y'all ain't nothing but a</p> <p>4 bunch of weekend wienie wannabe's, something</p> <p>5 of that nature. And all the time -- Like I</p> <p>6 said, you got a fellow sitting here saying</p> <p>7 he's been to Baghdad, talking about how many</p> <p>8 people he's killed and everything, and then</p> <p>9 all of a sudden you've been over there a</p> <p>10 couple times, you've done it, and sitting</p> <p>11 there and telling you you're a joke. I</p> <p>12 mean, as far as actual knock-down dragouts,</p> <p>13 no, I don't -- I can control myself better</p> <p>14 than that.</p> <p>15 Q. What about him? Did he ever</p> <p>16 yell at you?</p> <p>17 A. He yelled at everybody.</p> <p>18 Q. When you say yelled, did he</p> <p>19 literally raise his voice?</p> <p>20 A. Oh, yeah. When I say he</p> <p>21 yelled, yes, he yelled.</p> <p>22 Q. Did he ever yell at you about</p> <p>23 your military service?</p>
<p style="text-align: right;">Page 326</p> <p>1 it?</p> <p>2 A. Yeah. But that was -- that</p> <p>3 was -- that was a pretty good -- pretty big</p> <p>4 meeting. And I -- He had jumped on me</p> <p>5 pretty hard about my Guard duty that day.</p> <p>6 Q. How did he jump on you?</p> <p>7 A. Telling me that all we did was</p> <p>8 go down there and party, we didn't train.</p> <p>9 Q. Was it --</p> <p>10 A. All we was was a bunch of</p> <p>11 losers wanting to play army.</p> <p>12 Q. Was that the worst incident?</p> <p>13 A. Was that the worst incident?</p> <p>14 Probably not. That was probably the worst</p> <p>15 group incident.</p> <p>16 Q. Okay. What was the worst</p> <p>17 incident that the two of you had?</p> <p>18 A. I mean, we never -- I never</p> <p>19 got in a shouting match.</p> <p>20 Q. What is the worst thing he</p> <p>21 ever said to you?</p> <p>22 A. Like I said, basically telling</p> <p>23 me I wasn't -- that my military career was</p>	<p style="text-align: right;">Page 328</p> <p>1 A. Yeah.</p> <p>2 Q. What did -- How did he yell at</p> <p>3 you? What did he yell at you?</p> <p>4 A. You're going to bring me some</p> <p>5 military orders. And come in Monday:</p> <p>6 Where's my orders? If you don't bring them,</p> <p>7 you're going to get wrote up. You're going</p> <p>8 to get fired for your military service. You</p> <p>9 were supposed to be here this weekend.</p> <p>10 If you haven't talked to him,</p> <p>11 I'm sure you will, which I'm sure you have.</p> <p>12 Q. Anything else that he said?</p> <p>13 A. I don't remember. I mean, it</p> <p>14 was -- it was an ongoing event for several,</p> <p>15 several months.</p> <p>16 Q. But I need to make sure I know</p> <p>17 what he did.</p> <p>18 A. Okay. We've covered it.</p> <p>19 Q. All right.</p> <p>20 A. I'm telling you what he did.</p> <p>21 Like I said, you talk to my friends, you</p> <p>22 pretty much know.</p> <p>23 Q. Is there anything else that</p>

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<p style="text-align: right;">Page 329</p> <p>1 Greg Prater did or said that you felt was 2 harassing in any way? 3 A. Yeah. Like I said -- Like I 4 started out this morning, my military 5 service became an issue, and it never went 6 away. It stayed an issue, it caused 7 problems. And I believe, to my utmost 8 ability, that that was the reason I'm fired 9 -- I was fired. I mean, everything points 10 -- everything falls back on my military 11 commitment, everything, from get-go to 12 finish. 13 I don't care what her letter 14 (indicating) says, even -- Like I said, 15 Prater's recommendation, even if he wasn't 16 sleeping, I recommend he be terminated. 17 Everything falls back to me not providing 18 something that I cannot provide for a drill, 19 for a weekend. 20 MR. KILBORN: For the Record, 21 you pointed to a Defendant's Exhibit 12. 22 THE WITNESS: Yes, sir. 23 MR. KILBORN: All right. I</p>	<p style="text-align: right;">Page 331</p> <p>1 your cell phone was the question asked. 2 Q. Okay. 3 A. So they ignored -- They threw 4 their own policy out the window, as they did 5 with everything else, as they did with their 6 policy on the military leave. Prater 7 telling me he's going to make me use my 8 vacation time in lieu of my military leave. 9 Q. They never did that, though? 10 A. No, sir, he didn't. 11 Q. Okay. 12 A. But I didn't know that. 13 Q. You called -- Why is it you 14 made the decision to call Mr. Moon after you 15 were terminated? Why Mr. Moon? 16 A. He was the only person I knew 17 to call. 18 Q. Why didn't you call Mr. Moon 19 and complain about Greg Prater when he was 20 allegedly harassing you? 21 A. The Koreans -- Well, everybody 22 complained to Mr. Moon about Prater. 23 Mr. Moon knew how Prater was, that's what he</p>
<p style="text-align: right;">Page 330</p> <p>1 just wanted the Record to be clear what you 2 pointed to. 3 Q. Mr. Dees, was using the cell 4 phone for text messaging or other personal 5 purposes, a violation of Hyundai policy or 6 other policy? 7 A. Well, you've got their policy 8 there somewhere, I know. 9 Q. I'm asking you? 10 A. Their policy states your cell 11 phone is to be kept in your locker and only 12 used on breaks and lunch breaks. And as I 13 stated earlier, Prater, Mr. Moon, Applegate 14 even called some of our team members on our 15 personal cell phones during breakdowns 16 wanting to know what was going on. 17 Q. Okay. 18 A. Their policy said one thing, 19 they enforced something else. 20 Q. Okay. 21 A. And that come from management, 22 all the way down. And if you didn't have 23 your cell phone, why didn't you call me on</p>	<p style="text-align: right;">Page 332</p> <p>1 said. 2 Q. Did you? 3 A. Yeah, I complained to 4 Mr. Moon. 5 Q. What did you tell Mr. Moon 6 about Prater before you were terminated? 7 A. The exact comments, I have no 8 idea. 9 Q. Did you tell him he's 10 harassing me because I go on Guard duty? 11 A. Yes, I did. I told Mr. Moon 12 that I was being picked on by Greg Prater, 13 by Applegate, and HR. And he said, look, I 14 know Prater is a bad man. Give me time. 15 Q. This was before you were 16 terminated? 17 A. Yes. I wasn't the only one 18 that complained to him. 19 Q. Okay. 20 A. But as far as, like I said, 21 about my Guard duty, yes, I did. I didn't 22 know nobody else to call. Mr. Moon was the 23 only one I knew. He was the other</p>

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<p style="text-align: right;">Page 333</p> <p>1 counterpart, the Korean counterpart, my 2 Korean boss in that shop, and I called him. 3 Q. What I'm trying to make sure I 4 understand, is in the sense that you called 5 him after you were terminated, did you call 6 him or have your wife call him during the 7 period in which you were allegedly harassed 8 to try to get him to stop Greg Prater? 9 A. No. I talked to him a few 10 times at work. But I didn't know I was 11 being terminated. How am I supposed to call 12 somebody if I don't know I'm being 13 terminated? 14 Q. Did you know you were being 15 harassed? 16 A. Yes. Why do you think I went 17 to HR. 18 Q. So you knew that but you 19 didn't go to Mr. Moon with that? 20 A. I told you earlier that I 21 complained to Mr. Moon about one time and he 22 said give me time. And Prater was -- He 23 knew Applegate. But apparently it didn't do</p>	<p style="text-align: right;">Page 335</p> <p>1 your termination? 2 A. I don't know. Like I said, 3 everything went back to that military 4 record. 5 Q. But again what did you know. 6 Do you have any reason to think that Mr. Ahn 7 knew about your situation? 8 A. Like I said, it all went back 9 to my military record. Apparently it had to 10 have come up somewhere along the line. 11 Q. Do you have any personal 12 knowledge as to what Mr. Ahn knew about it? 13 That's an easy question to answer. 14 A. I wasn't in the meeting. I 15 don't know what they discussed. All I 16 know -- 17 Q. So the answer is no? 18 MR. KILBORN: Hold on. Don't 19 interrupt him. 20 A. All I know is that it went 21 back -- it started with my military career, 22 my military commitment, and it stayed there. 23 Q. Would it be fair --</p>
<p style="text-align: right;">Page 334</p> <p>1 no good, they told him to leave it alone. 2 Q. Is that the only discussion 3 you had with Mr. Moon about the harassment? 4 A. Probably. Because the Koreans 5 don't like to discuss problems like that. 6 They think if they wait, they will just go 7 away; that's their custom. 8 Q. Do you have any reason to 9 think that Mr. Moon talked to President Ahn 10 about the situation? 11 A. Say again. 12 Q. Do you have any reason to 13 think that Mr. Moon spoke to President Ahn 14 about your situation? 15 A. Before I was fired? 16 Q. Before or after. 17 A. Well, he talked to either J.H. 18 Kim or Mr. Ahn, one, after I was fired. I 19 have no idea who he talked to before I was 20 fired. 21 Q. Do you have any reason to 22 think that President Ahn had anything to do 23 with your termination or even knew about</p>	<p style="text-align: right;">Page 336</p> <p>1 A. I wasn't in the meeting, I 2 don't know what they discussed. I just know 3 everything come from my military obligation. 4 Q. Would it be fair to state that 5 you, today, don't have knowledge of whether 6 President Ahn were involved or not involved? 7 Would that be a fair statement? 8 A. I'm going with my last 9 comment. 10 Q. Well, is that not a fair 11 statement or is it a fair statement? 12 A. Like I said, I wasn't in the 13 meeting. I have no idea what they said. 14 All I know is everything stemmed from my 15 military career and commitment. 16 Q. So you don't know what 17 involvement, if any, Mr. Ahn had; is that 18 true? 19 A. Like I said -- 20 MR. KILBORN: Object. You 21 asked him that four or five times. 22 MR. JOHNSON: He doesn't want 23 to answer the question though.</p>

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<p style="text-align: right;">Page 337</p> <p>1 MR. KILBORN: Hold on. I'm 2 going to get my objection in or we're going 3 to be here until the cows come home. You 4 asked him that four or five times, he's told 5 you what he knows about Mr. Ahn, he's told 6 you that Mr. Moon said that he was going to 7 Mr. Ahn or Mr. Kim. Now get on with your 8 next question. 9 MR. JOHNSON: What he hasn't 10 said is what he knows about whether or not 11 Mr. Ahn was involved. 12 MR. KILBORN: I think he's 13 told you what he knows. If you know 14 anything else, tell him about Mr. Ahn. 15 Q. Do you know anything else 16 about Mr. Ahn's involvement? 17 A. I've answered the question the 18 only way I know how to answer it, and that's 19 the answer I'm sticking with. 20 Q. Okay. So there's nothing else 21 you can tell me about Mr. Ahn's involvement 22 with your situation? 23 A. Like I said, I've answered to</p>	<p style="text-align: right;">Page 339</p> <p>1 there. 2 Q. Okay. You mentioned your 3 military pay stubs earlier. Did you get pay 4 stubs from Hyundai? 5 A. Yes, sir. 6 Q. And you do you remember what 7 company name was on the pay stub? 8 A. No, I do not. 9 Q. Okay. Do you remember if it 10 was Hyundai Motor Manufacturing Alabama? 11 A. I don't know. I don't 12 remember. I don't remember what was on the 13 pay stub. 14 I know -- I tell you what I do 15 know, I know that HMC owns everything, 16 because our Korean bosses worked for HMC, 17 and that's what their badges said, and 18 that's what they said, so HMC owned all of 19 us, and they told us that. 20 Q. Okay. Did you ever deal with 21 anybody from HMA? 22 A. I don't remember. I may have, 23 I may not have.</p>
<p style="text-align: right;">Page 338</p> <p>1 the best of my ability, and that's the 2 answer I'm sticking with. 3 Q. I'm sure that will be 4 satisfactory. 5 Who is the other gentleman, 6 Mr. Kim? 7 A. J.H. Kim. 8 Q. What do you know about 9 Mr. Kim's involvement? Tell me what you 10 know. 11 A. Same thing. 12 Q. So you don't have anything to 13 tell me? 14 A. No, sir. 15 Q. Do you have anything to tell 16 me about Jason Lee's involvement? 17 A. I have no knowledge of who 18 Jason Lee is. 19 Q. Okay. 20 A. All I know is that he called 21 my wife and interviewed her for a job. 22 Q. Okay. When did that happen? 23 A. I don't know. I was working</p>	<p style="text-align: right;">Page 340</p> <p>1 Q. But you don't recall if you 2 did or didn't? 3 A. No, sir. I mean, I know it 4 went HMC, HMA, and like I say, HMMA, and we 5 all fell under HMC; HMC owns all of it. 6 That's what we was told by the Koreans. 7 Q. Do you have any information to 8 suggest that anybody from HMA was involved 9 in your termination? 10 A. They own our company. 11 Q. Do you have any other 12 knowledge? 13 A. They own our company. HMC 14 owns all of us, we're all one big -- they 15 were all one big company. 16 Q. Do you have any information to 17 suggest that HMA was involved, other than in 18 the ownership, as you state? 19 A. Like I said, it was all one 20 company. 21 Q. Is there anything else you can 22 tell me about that? 23 A. It was all one company.</p>

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<p>1 Q. Okay. I'm going to take that 2 as a no. 3 A. It was all one company. It's 4 not a no, it was all one company. You talk 5 to the Koreans out there, and they will tell 6 you this is all one company. 7 Q. Who? Who says that? What 8 Koreans? 9 A. Any Korean. You go out there 10 and ask any one of them, and they will tell 11 you that HMC is sole owner and HMC controls 12 everything. 13 Q. They say HMC controls 14 everything? 15 A. HMC, HMC, HMA, it goes down 16 the chain. They run their companies like a 17 military organization in a chain of command. 18 And you've got HMC, HMA; HMC would be the 19 commandant, HMA would be your generals, and 20 HMMA would be your peons and your officers. 21 Q. Did any of them -- Well, do 22 you know any HMA employees? 23 A. I may have met some of them.</p>	<p>1 bill. And we've had some discussions with 2 your attorneys after the Record. 3 MR. JOHNSON: As I understand 4 it, Mr. Sport, correct me if I'm wrong. 5 Mr. Sport is going to provide to our court 6 reporter an additional copy of pages one 7 through seven of Exhibit 13 and we'll mark 8 that -- Can we have that marked as 14? 9 COURT REPORTER: Sure. 10 MR. JOHNSON: And just for the 11 Record, 14 will basically be this exactly 12 presumably less the fax transmittal 13 information. 14 MR. SPORT: Hopefully more 15 legible. 16 MR. JOHNSON: More legible 17 MR. SPORT: That's the goal. 18 (Whereupon, Defendant's 19 Exhibit No. 14 was marked 20 for identification.) 21 Q. Okay. Now, to the extent that 22 I can, Mr. Dees, I want to look through 23 Exhibit 13, since I haven't had a chance to</p>
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<p>1 We had people coming in from HMA all the 2 time, but I don't remember. I don't know. 3 We had people coming in from all. We had 4 people coming in from Kia that HMC owns. We 5 had people from everywhere. As far as 6 personally knowing them, I don't remember. 7 I may have met them, I may not have met 8 them. 9 Q. Okay. 10 MR. JOHNSON: Can we mark this 11 one? 12 MR. SPORT: Sure. 13 (Whereupon, Defendant's 14 Exhibit No. 13 was marked 15 for identification.) 16 Q. Mr. Dees, I'm going to mark as 17 Exhibit 13, which is a seven-page document 18 which appears to be your cell phone record. 19 Can you just take a look at it and confirm 20 that that's what it is? 21 (Recess taken.) 22 Q. Okay. Mr. Dees, we've got 23 marked as Exhibit 13 the seven-page phone</p>	<p>1 look at it yet, and then possibly ask some 2 questions. 3 I assume Nikki is one of your 4 daughters? 5 A. Yeah. 6 Q. And are there only two phones 7 on this plan? 8 A. Is that the only two plans on 9 that for phone? 10 MR. KILBORN: You have to 11 answer the question. This is your 12 deposition. 13 A. I can't -- I don't pay the 14 bills, I just work. 15 Q. Okay. And, Mr. Dees, this 16 question is as much for your attorneys as it 17 is for you. I'm looking at page five of 18 this bill, and it looks like some of the 19 incoming calls don't have a number 20 associated with it. 21 MR. SPORT: They have not been 22 redacted, if that's your question. 23 A. I didn't say I had a good</p>

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<p style="text-align: right;">Page 345</p> <p>1 provider, I just said I had a provider. 2 MR. JOHNSON: And who -- You 3 know, I know that it's been redacted from 4 this, but I don't see any issues asking who 5 his provider is, is that something y'all are 6 opposed to him answering, subject to the 7 protective order? 8 MR. KILBORN: I'll let him 9 answer who his provider is. But outside of 10 what you've got there, you hadn't asked for 11 it and we're going to object to any further 12 request. But as I further stated, I'll 13 discuss with you sharing documents as we 14 talked about earlier. 15 MR. JOHNSON: Okay. I'm not 16 sure I understand. But I understand you'll 17 let him tell me who his cell phone provider 18 is. 19 MR. KILBORN: Well, no, let me 20 make that clear. We've asked a simple 21 request to look at the plant and photograph 22 it, that's what I'm talking about. In other 23 words, what I'm talking about is, I like</p>	<p style="text-align: right;">Page 347</p> <p>1 MR. KILBORN: I just told you, 2 I'd let him testify who his provider was. 3 But I'm just asking for accommodation, and I 4 want it on the Record, you said you didn't 5 know what I was talking about and I wanted 6 to make clear what I was talking about. 7 Q. Mr. Dees, who is your cell 8 phone provider? 9 A. Unicel. 10 Q. And was Unicel your provider 11 back in 2007? 12 A. Yes, sir. 13 Q. And how do you spell Unicel? 14 A. U-N-I-C-E-L. 15 Q. Just one L? 16 A. Yes. 17 Q. And, Mr. Dees, are you 18 familiar with anywhere in this invoice where 19 it talks about you having text messaging 20 capacity or how much you were charged for 21 text messages? 22 A. Like I said, I just work. I 23 don't pay the bills.</p>
<p style="text-align: right;">Page 346</p> <p>1 free discovery, and I'll do that with you, 2 even though you haven't asked about it. 3 MR. JOHNSON: I think we did 4 ask for -- 5 MR. KILBORN: But you guys 6 pulling these technicalities, so don't be 7 asking us for accommodations unless you're 8 willing to also give us accommodations. 9 MR. JOHNSON: Well, let me say 10 this, Mr. Kilborn, I believe and if 11 necessary I can go back and dig through the 12 file and find it, I think we asked for all 13 of his cellular telephone records. And we 14 were told we couldn't have them, I didn't 15 complain about that. I thought Mr. Sport 16 and I had reached some agreement on that, 17 which was fine with me. But my 18 understanding was that I would at least know 19 who the provider was. And I don't see why 20 that's a problem. 21 If I need to go back and 22 search for what we did in fact, ask for 23 months and months ago, I can do it.</p>	<p style="text-align: right;">Page 348</p> <p>1 Q. Okay. 2 A. I don't -- 3 Q. So, you never look at the cell 4 phone bills? 5 A. No. 6 Q. Okay. Have you ever looked at 7 this one before today? 8 A. I may have. I don't know. 9 Q. You don't recall? 10 A. No. 11 Q. Mr. Dees, did you have a 12 chance to look at the report that Mr. Hall, 13 who is here with us today, prepared? 14 A. Yes, sir. 15 Q. Okay. And when did you review 16 it? 17 A. I reviewed it yesterday with 18 Mr. Hall, like I said this morning. 19 Q. Okay. And in reviewing it 20 with Mr. Hall, did y'all do a page-by-page 21 analysis of it, or what did you do? 22 A. Somewhat. Not really. I'm 23 not an accountant or a lawyer, I don't know.</p>

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<p style="text-align: right;">Page 349</p> <p>1 Q. Okay. And was there anything</p> <p>2 in Mr. Hall's report that you didn't agree</p> <p>3 with?</p> <p>4 MR. KILBORN: Asked and</p> <p>5 answered.</p> <p>6 MR. JOHNSON: Did I cover</p> <p>7 that?</p> <p>8 Q. I know you indicated that you</p> <p>9 filed a complaint with the ESGR. Did you</p> <p>10 file a complaint with any other governmental</p> <p>11 agencies?</p> <p>12 A. No, sir.</p> <p>13 Q. Did you ever go to the EEOC to</p> <p>14 try to file a claim there?</p> <p>15 A. No.</p> <p>16 Q. Did you talk to any other</p> <p>17 governmental entities about possibly filing</p> <p>18 a claim?</p> <p>19 A. Not after I talked to ESGR, I</p> <p>20 felt it was a waste of time.</p> <p>21 Q. Did you ever call the</p> <p>22 Department of Labor?</p> <p>23 A. No. I told you, I had to go</p>	<p style="text-align: right;">Page 351</p> <p>1 can't ask who he talked to on a break.</p> <p>2 MR. JOHNSON: Why not? He's</p> <p>3 not supposed to talk to people on a break</p> <p>4 about the substance of his testimony.</p> <p>5 MR. KILBORN: He can talk to</p> <p>6 his lawyers all he wants.</p> <p>7 MR. JOHNSON: About the</p> <p>8 substance of his testimony?</p> <p>9 MR. KILBORN: He can talk to</p> <p>10 his lawyer about anything he wants to.</p> <p>11 MR. JOHNSON: In Alabama state</p> <p>12 court maybe. Do you think that will fly in</p> <p>13 Federal Court?</p> <p>14 MR. KILBORN: I certainly do.</p> <p>15 A. Look, I'm the type person,</p> <p>16 when I read something over and over again,</p> <p>17 the more I think about it, the more it jars</p> <p>18 my memory.</p> <p>19 Q. Are you telling me you didn't</p> <p>20 talk to anybody else about the substance of</p> <p>21 your testimony on that point?</p> <p>22 A. You asked a question earlier,</p> <p>23 I gave you an answer.</p>
<p style="text-align: right;">Page 350</p> <p>1 back to work. I didn't have time for --</p> <p>2 Q. Okay.</p> <p>3 MR. JOHNSON: We'll take a</p> <p>4 short break, talk with Mr. Smith, and we may</p> <p>5 be done.</p> <p>6 A. All right. A while ago, when</p> <p>7 you asked me did I call that Monday morning,</p> <p>8 I'd forgotten but yes, I called. I kept</p> <p>9 getting an answering machine, I got</p> <p>10 frustrated, call my wife, asked her to call.</p> <p>11 She wouldn't call because she didn't know</p> <p>12 what to say. And I don't know whether I</p> <p>13 ever left a message that I was trying to</p> <p>14 call and reschedule.</p> <p>15 Q. All right. What Monday</p> <p>16 morning are you talking about?</p> <p>17 A. That Monday morning, that peer</p> <p>18 review process.</p> <p>19 Q. All right. Let me ask you</p> <p>20 this. Did you talk to somebody on a break</p> <p>21 about your prior answer?</p> <p>22 A. No, I --</p> <p>23 MR. KILBORN: Hold on. You</p>	<p style="text-align: right;">Page 352</p> <p>1 Q. I know. Now you've got a</p> <p>2 different answer.</p> <p>3 A. Yes. And I told you that I</p> <p>4 did call them that morning. And I kept</p> <p>5 getting the answering machine, I told you</p> <p>6 what happened, I got frustrated. Called my</p> <p>7 wife, I asked her to try and call. And she</p> <p>8 wouldn't call because she didn't know what</p> <p>9 to say. So I tried to call back. I don't</p> <p>10 remember whether I left a message or not,</p> <p>11 but I know I was trying to call and</p> <p>12 reschedule.</p> <p>13 Q. Let me ask you this, did you</p> <p>14 talk to your wife about that on the break?</p> <p>15 A. You asked -- I told you what</p> <p>16 I'd done. I mean, you asked a question</p> <p>17 earlier, I answered it, and I had answered</p> <p>18 the question wrong.</p> <p>19 Q. Okay.</p> <p>20 A. What the question was, did I</p> <p>21 attempt to call anyone that day to</p> <p>22 reschedule, did I attempt to go, did I</p> <p>23 attempt to talk to anyone, did I attempt to</p>

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<p>1 write anyone, and I had said no. And I 2 forgot, I did try to call that morning. And 3 I had -- I kept getting an answering 4 machine. 5 Q. All right. And you agree 6 that's not what you testified to earlier 7 today? 8 A. That's not what I testified to 9 earlier today, no. 10 Q. All right. Did any particular 11 thing spur you to change your testimony in 12 that regard? 13 A. Well -- 14 Q. Did you talk to your wife 15 about what you said earlier? 16 A. I told you, I forgot and I 17 answered the question wrong. 18 Q. Okay. Did you talk to your 19 wife about your testimony? 20 A. I told you, that was my 21 answer. I gave you my answer. 22 Q. I'm asking you a specific 23 question.</p>	<p>1 what spurred you -- 2 A. But I gave you the answer, 3 like I said. 4 Q. Did you talk to your wife 5 about your testimony here today? 6 A. No, sir. I'm telling you that 7 that was my answer, period, plain and 8 simple. 9 Q. And you did not talk to your 10 wife about it? That's your sworn testimony? 11 A. She's got wrote down what I 12 said. 13 Q. I'm asking a simple question, 14 yes or no. 15 A. I gave you an answer to your 16 question. 17 Q. Did you talk to your wife? 18 A. I gave you an answer to your 19 question, sir. 20 Q. That didn't sound like an 21 answer to me and I -- 22 A. You asked me earlier today had 23 I tried to get in contact with anybody, and</p>
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<p>1 A. And I answered your question. 2 I said I forgot what I had done. 3 Q. And are you also -- 4 A. And I answered the question. 5 I stated that I had called. I have 6 forgotten that I had called. 7 Q. I heard you. 8 A. I also stated that I got an 9 answering machine several times. I also 10 stated that I got frustrated; that I called 11 my wife; that I had asked my wife to call; 12 my wife would not call. Therefore, I don't 13 know if I left a message or not. I was 14 upset, and I was working to make money. 15 That's my answer. 16 Q. And I understand that's your 17 answer now -- 18 A. Yes, sir. 19 Q. -- but that wasn't your answer 20 earlier -- 21 A. No, sir, that was not my 22 answer earlier. 23 Q. -- I'm trying to figure out</p>	<p>1 I answered no. 2 Q. You did answer no. 3 A. You acknowledge I answered no. 4 That was my answer. 5 Q. Your testimony earlier today 6 is different than your testimony right now; 7 correct? 8 A. You don't make mistakes? 9 Q. I make mistakes. 10 A. So do I, I'm human. I don't 11 know nobody that don't make mistakes. 12 Q. Let me ask some questions 13 here. And I'd like some answers from you. 14 I mean, we've got several hours we can be 15 here or we can go home. 16 A. I can stay awake. 17 Q. That's what you say. 18 A. That's what I know. 19 Q. Now let me ask the question: 20 Your testimony was different this morning 21 than it is now. And if it just suddenly 22 struck you for no apparent reason, that's 23 fine.</p>

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<p>1 A. You've never had that happen?</p> <p>2 Q. I have had it happen. Is that</p> <p>3 what happened to you?</p> <p>4 A. What's so strange about it?</p> <p>5 Q. Is that what happened to you?</p> <p>6 A. What's so strange about it?</p> <p>7 Q. Is that what happened to you?</p> <p>8 A. I told you.</p> <p>9 Q. No.</p> <p>10 A. I answered the question wrong</p> <p>11 earlier today, and that's my answer.</p> <p>12 Q. I know you said you changed</p> <p>13 your testimony, that's obvious from what</p> <p>14 you're saying.</p> <p>15 A. Yes, I did.</p> <p>16 Q. That's obvious from what</p> <p>17 you're saying.</p> <p>18 A. Yes.</p> <p>19 Q. What I'm asking you is, what</p> <p>20 made it change? Were you just suddenly</p> <p>21 struck by a different thought or did you</p> <p>22 talk to somebody that made you change your</p> <p>23 testimony?</p>	<p>1 MR. JOHNSON: Back on the</p> <p>2 Record.</p> <p>3 Q. Mr. Dees, before we took a</p> <p>4 break, I had started asking you some</p> <p>5 questions --</p> <p>6 A. Yes, sir.</p> <p>7 Q. -- because you testified to</p> <p>8 one thing earlier today, and moments ago,</p> <p>9 just before the break, you testified</p> <p>10 something different.</p> <p>11 A. Yes, I did.</p> <p>12 Q. And, again, that's okay with</p> <p>13 me. I just want to know why. And if your</p> <p>14 testimony is that you just remembered, then</p> <p>15 I'd like to know that. But if the truth is</p> <p>16 that you talked to your wife, and she jogged</p> <p>17 your memory, and you now know more, I want</p> <p>18 to know that.</p> <p>19 A. She told me that I -- She told</p> <p>20 me that I had called them. I forgot about</p> <p>21 it. Because she told me I called her saying</p> <p>22 I was frustrated. When she said that, I</p> <p>23 remembered, yeah, I called them several</p>
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<p>1 A. I answered the question.</p> <p>2 Q. You did not answer that</p> <p>3 question.</p> <p>4 A. That's my testimony I'm</p> <p>5 sticking with, period.</p> <p>6 Q. I'm going to get an answer.</p> <p>7 A. We've got a couple more hours.</p> <p>8 Q. And we can go now or we can go</p> <p>9 then. But I want an answer to the question.</p> <p>10 A. Okay. Ask your question.</p> <p>11 Q. Did you talk to your wife or</p> <p>12 anybody else and that made you change your</p> <p>13 testimony?</p> <p>14 A. I told you -- Well, she's got</p> <p>15 what I told you, that's what I'm sticking</p> <p>16 with.</p> <p>17 Q. Did you talk to your wife</p> <p>18 about substance of your testimony during</p> <p>19 this deposition?</p> <p>20 A. She's through typing now.</p> <p>21 MR. KILBORN: Let's take a</p> <p>22 break.</p> <p>23 (Recess taken.)</p>	<p>1 times.</p> <p>2 Q. Okay. So now you remember</p> <p>3 calling them?</p> <p>4 A. Yes, sir, I did. And I got</p> <p>5 mad because I kept getting that stinking</p> <p>6 answering machine.</p> <p>7 Q. Okay. See, that wasn't too</p> <p>8 hard, was it?</p> <p>9 A. Well, this is all new to me.</p> <p>10 I'm a soldier. I go fight where I'm told to</p> <p>11 fight and jump on who I'm told to.</p> <p>12 Q. This is where we fight.</p> <p>13 A. That's what y'all get paid</p> <p>14 for. This ain't my environment.</p> <p>15 Q. All right. There wasn't any</p> <p>16 magic to that, I just wanted to know the</p> <p>17 answer to the question. Okay?</p> <p>18 A. Well . . .</p> <p>19 Q. Have you ever appeared in</p> <p>20 court before?</p> <p>21 A. Just when I filed bankruptcy.</p> <p>22 Q. Okay. Did you give a</p> <p>23 deposition?</p>

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<p style="text-align: right;">Page 361</p> <p>1 A. No, sir.</p> <p>2 Q. Have you ever given a</p> <p>3 deposition like this today?</p> <p>4 A. Nope.</p> <p>5 MR. SPORT: You have now.</p> <p>6 THE WITNESS: Yeah. I don't</p> <p>7 like these at all.</p> <p>8 Q. When you filed bankruptcy, did</p> <p>9 you actually have to go to bankruptcy court?</p> <p>10 A. Yes, I did. It was quite</p> <p>11 embarrassing.</p> <p>12 Q. Now, Mr. Dees, before we get</p> <p>13 -- I basically get one shot at asking you</p> <p>14 questions.</p> <p>15 A. All right.</p> <p>16 Q. And I don't want to leave here</p> <p>17 thinking I didn't ask you something or I</p> <p>18 didn't get a fair answer from you.</p> <p>19 Are there any other questions</p> <p>20 that I've asked you today that you've</p> <p>21 already answered that you feel like you need</p> <p>22 to change or add to or take from?</p> <p>23 A. I'm still uncertain as to what</p>	<p style="text-align: right;">Page 363</p> <p>1 had with Mr. Prater or how do you know that?</p> <p>2 A. That stemmed -- That caused</p> <p>3 all of my problems from when we started to</p> <p>4 finish.</p> <p>5 MR. JOHNSON: As I said</p> <p>6 earlier, I'm going to take a quick break and</p> <p>7 talk with Mr. Smith. And assuming he hasn't</p> <p>8 thought of anything else, we'll probably be</p> <p>9 done. So give me just a few minutes, and</p> <p>10 we'll be right back.</p> <p>11 (Recess taken.)</p> <p>12 Q. Mr. Dees, I know that your</p> <p>13 attorneys had early on in the case provided</p> <p>14 something called Plaintiff's Initial</p> <p>15 Disclosures. It included a list of</p> <p>16 witnesses and people that know something</p> <p>17 about the case.</p> <p>18 And I want to ask -- I want to</p> <p>19 read off some of the names and ask you to</p> <p>20 let me know if there is anybody else that</p> <p>21 you're familiar with that might have</p> <p>22 information that's not included here.</p> <p>23 MR. SPORT: Matt, before he</p>
<p style="text-align: right;">Page 362</p> <p>1 you was wanting when you were asking about</p> <p>2 my knowledge of a meeting and whatever. You</p> <p>3 kept asking the question, and I still don't</p> <p>4 -- I'm still unsure of what you was hinting</p> <p>5 at.</p> <p>6 Q. Okay. What --</p> <p>7 A. Like I said, all I know is</p> <p>8 everything stemmed from my military</p> <p>9 service --</p> <p>10 Q. And that's all you know?</p> <p>11 A. -- and my military commitment.</p> <p>12 I don't care what was said in the meeting, I</p> <p>13 wasn't in the meeting. All I know is</p> <p>14 everything when my military commitment</p> <p>15 became a problem, it escalated to a point</p> <p>16 and it got me terminated because of my</p> <p>17 military commitment.</p> <p>18 I didn't even know they had</p> <p>19 had a meeting. But I know -- do know that</p> <p>20 my military career was the reason for my</p> <p>21 being terminated.</p> <p>22 Q. All right. And you know that</p> <p>23 just because that's the only problems you</p>	<p style="text-align: right;">Page 364</p> <p>1 starts on that, do you also have the</p> <p>2 supplement?</p> <p>3 MR. JOHNSON: Yeah. I think</p> <p>4 so.</p> <p>5 MR. SPORT: We added some</p> <p>6 names.</p> <p>7 MR. JOHNSON: Okay. Well, let</p> <p>8 me make sure. Did you add names on the</p> <p>9 supplement? I know you provided those tax</p> <p>10 documents.</p> <p>11 MR. SPORT: Yeah. I think we</p> <p>12 added a couple of names, four, five, six,</p> <p>13 seven, something like that.</p> <p>14 MR. JOHNSON: You don't happen</p> <p>15 to have them, do you?</p> <p>16 MR. SPORT: I don't. But go</p> <p>17 ahead and ask him, and the documents will</p> <p>18 say what they say.</p> <p>19 MR. JOHNSON: Yeah. Sure.</p> <p>20 Q. All right. Well, anyways,</p> <p>21 Mr. Dees, I realize that there might be</p> <p>22 additional names on a supplemental</p> <p>23 disclosure, and if they're there, I'll look</p>

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<p>1 at it and see what they are.</p> <p>2 But for purposes of the</p> <p>3 deposition, let me just refer to the Initial</p> <p>4 Disclosures that were provided. And they've</p> <p>5 indicated a number of names that have come</p> <p>6 up plenty of times: Your name, your wife's</p> <p>7 name, Greg Prater's name, Kevin Hughes, John</p> <p>8 Applegate. They list here Keisha Morris, is</p> <p>9 that the Keisha you're referring to?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. Mr. Moon is included,</p> <p>12 Wendy Warner is included. It's identified</p> <p>13 Drake Barefoot, he was a coworker of yours;</p> <p>14 is that right?</p> <p>15 A. That's right.</p> <p>16 Q. Okay. And we've talked about</p> <p>17 him some. Mark Bornberg, was he also your</p> <p>18 coworker?</p> <p>19 A. Yes.</p> <p>20 Q. And we've talked about him</p> <p>21 some?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And Chris -- W-E-I-H-E?</p>	<p>1 A. Yeah.</p> <p>2 Q. Okay.</p> <p>3 A. No. He came to work -- I</p> <p>4 don't know when he started with the company.</p> <p>5 Plus he started out on that weekend shift</p> <p>6 and then he moved to our shift.</p> <p>7 Q. Okay. What about Chris Weihe,</p> <p>8 was he --</p> <p>9 A. Chris was one of the very</p> <p>10 first ones hired on.</p> <p>11 Q. Was he at that meeting?</p> <p>12 A. Yes.</p> <p>13 Q. And was Mark Bornberg at that</p> <p>14 meeting?</p> <p>15 A. I don't know if Bornberg was</p> <p>16 or not.</p> <p>17 Q. Okay. And was Drake Barefoot</p> <p>18 at the meeting?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And also included here</p> <p>21 is a guy we haven't talked about, John</p> <p>22 Wingo?</p> <p>23 A. Yes. Wingo was there too.</p>
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<p>1 A. Weihe.</p> <p>2 Q. And we talked about him some.</p> <p>3 I think we also talked about Shane Archer</p> <p>4 who worked with you as well?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is that a yes?</p> <p>7 A. Yes.</p> <p>8 Q. And I think you mentioned Mark</p> <p>9 Hanks' name, but I didn't get a good feel</p> <p>10 for what you understood Mark Hanks to know.</p> <p>11 Tell me what -- I know we talked about the</p> <p>12 big meeting where you and a number of your</p> <p>13 coworkers were there, you talked with</p> <p>14 Prater, and that was sort of a big deal</p> <p>15 meeting that we talked about. Was Mark</p> <p>16 Hanks there?</p> <p>17 A. Yes.</p> <p>18 Q. And was Shane Archer there?</p> <p>19 A. Yes. Well, wait a minute.</p> <p>20 The first meeting? I don't know if Shane</p> <p>21 was there or not.</p> <p>22 Q. Did he start later than some</p> <p>23 of the other guys?</p>	<p>1 Q. Who is John Wingo?</p> <p>2 A. He worked at International</p> <p>3 Paper with me, came down to Hyundai with me.</p> <p>4 And I'd known him several years, and he left</p> <p>5 and went to Honda.</p> <p>6 Q. Okay. When did he do that?</p> <p>7 A. I don't know.</p> <p>8 Q. I mean, did he leave before</p> <p>9 your termination, or since then?</p> <p>10 A. Before I was fired, yes.</p> <p>11 Q. Okay. And what did John Wingo</p> <p>12 know?</p> <p>13 A. He was there for most of the</p> <p>14 harassment, most of the time I was being</p> <p>15 pushed and harassed.</p> <p>16 Q. All right. Did you ever have</p> <p>17 any conversations with John Wingo about it?</p> <p>18 A. Yes, sir. Me and John were</p> <p>19 tight. He was a former Marine. Me and him</p> <p>20 had a good military bond.</p> <p>21 Q. You use the word pushed and</p> <p>22 harassed, were you actually physically</p> <p>23 pushed or were you just talking mentally</p>

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<p style="text-align: right;">Page 369</p> <p>1 pushed?</p> <p>2 A. I was actually physically</p> <p>3 grabbed, yes.</p> <p>4 Q. When?</p> <p>5 A. By Prater.</p> <p>6 Q. When?</p> <p>7 A. Before a shift one time. He</p> <p>8 come in and somebody stated, I got a</p> <p>9 headache, and he said: Yeah, so do I, and</p> <p>10 pointed at me. And, I don't know, several</p> <p>11 minutes later came up and tried to bear hug</p> <p>12 me from behind. And I don't even remember</p> <p>13 what the comment was that he made.</p> <p>14 Q. You don't remember?</p> <p>15 A. No, sir.</p> <p>16 Q. I mean, was he just goofing</p> <p>17 around, or what was the point of the bear</p> <p>18 hug?</p> <p>19 A. He -- It was -- Dadgumit. No,</p> <p>20 I mean, it wasn't goofing. I didn't --</p> <p>21 There was nothing goofing around. I didn't</p> <p>22 goof around with him, with management. I</p> <p>23 don't -- I don't remember.</p>	<p style="text-align: right;">Page 371</p> <p>1 under the bridge because he was management.</p> <p>2 Q. Okay.</p> <p>3 A. He cussed two of our</p> <p>4 specialists out, they went to team</p> <p>5 relations, went to HR, same thing, washed</p> <p>6 under the bridge because he was management.</p> <p>7 Q. All right. With respect to</p> <p>8 these guys that are your coworkers, Drake</p> <p>9 Barefoot, Mark Bornberg, Chris Weihe, Shane</p> <p>10 Archer, Mark Hanks, or John Wingo, can you</p> <p>11 think of any other discussions you had with</p> <p>12 them about Prater or your problems because</p> <p>13 of your military service that we haven't</p> <p>14 talked about already?</p> <p>15 A. There probably is, but right</p> <p>16 offhand, no, I don't remember. Plus there</p> <p>17 was Sergeant First Class Richberg and</p> <p>18 Sergeant Martin in my unit.</p> <p>19 Q. Wait. Say that again.</p> <p>20 A. You have Sergeant First Class</p> <p>21 Richberg and Sergeant Martin you need to add</p> <p>22 to your list.</p> <p>23 Q. Who is Richberg? I think you</p>
<p style="text-align: right;">Page 370</p> <p>1 Q. I mean, did you think he was</p> <p>2 trying to physically attack you?</p> <p>3 A. No. Because then that would</p> <p>4 -- I mean, I don't know what he was trying</p> <p>5 to do. He come up and grabbed me from</p> <p>6 behind. And I don't remember what the</p> <p>7 comment was that was made, but it was there</p> <p>8 in the shift office. Bill Seivers' shift</p> <p>9 saw it, my shift saw it. I busted loose,</p> <p>10 grabbed my tools, and walked out.</p> <p>11 Q. Okay.</p> <p>12 A. I don't remember what it was</p> <p>13 for. I don't remember what he said. I was</p> <p>14 -- I don't know.</p> <p>15 Q. Did y'all have any other</p> <p>16 discussion about it?</p> <p>17 A. No. I mean, some of the other</p> <p>18 fellows voiced their opinions.</p> <p>19 Q. What did they say?</p> <p>20 A. Just like every other thing --</p> <p>21 I don't know, I wasn't in there. I left.</p> <p>22 They voiced their opinion, like I said, it</p> <p>23 was like everything else, it was washed</p>	<p style="text-align: right;">Page 372</p> <p>1 mentioned his name earlier.</p> <p>2 A. He was my superior. He</p> <p>3 retired.</p> <p>4 MR. SPORT: I'll represent to</p> <p>5 you, I think those are two of the names we</p> <p>6 added in our supplement.</p> <p>7 MR. JOHNSON: I think you're</p> <p>8 right. Now I remember it.</p> <p>9 Q. Martin is somebody we talked</p> <p>10 about earlier?</p> <p>11 A. Martin, he took Sergeant First</p> <p>12 Class Richberg's place in our unit. I've</p> <p>13 known him for about ten years.</p> <p>14 Q. Barring anybody that may be in</p> <p>15 a supplemental disclosure that your</p> <p>16 attorneys have provided to us, and I'm sorry</p> <p>17 I can't hand them to you to look at, can you</p> <p>18 think of any other people that would have</p> <p>19 knowledge about your case or the allegations</p> <p>20 that you've made?</p> <p>21 A. You need to talk to some of</p> <p>22 the production people there, if you haven't</p> <p>23 already. I mean, they -- I don't know.</p>

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<p style="text-align: right;">Page 373</p> <p>1 Q. Is there anybody that knows 2 anything about it that we should talk to? 3 A. Right offhand -- 4 MR. SPORT: I don't think we 5 had listed one of the names he had mentioned 6 today. The guy's name ends in a Y, works in 7 production. 8 MR. JOHNSON: Stapley. 9 MR. SPORT: Stapley. I don't 10 think we've listed him, but we probably need 11 to supplement him. 12 Q. Mr. Dees, sort of my last 13 question here, I know -- your attorneys have 14 provided me a lot of documents, and I'm 15 assuming they all came from you. Are you 16 aware of any documents related to this case, 17 issues you had with Hyundai, issues you've 18 had with Greg Prater individually, or 19 anybody else that might relate to this case 20 that you haven't provided to your lawyers? 21 Is there any other 22 correspondence, any other e-mails, notes, or 23 anything?</p>	<p style="text-align: right;">Page 375</p> <p>1 not. 2 Q. Were there video recording 3 devices when you come into the security 4 building when you were fired? 5 A. Yes, sir. They have a room in 6 there, when you walk in the door, there's a 7 door straight across from the entry door, 8 and that room is all their recording 9 devices, I believe. That's where I saw 10 them. 11 Q. You saw them there? 12 A. Yes, sir. 13 Q. Okay. And what about the 14 plant, does it have any recording devices? 15 A. Yes, sir. 16 Q. Where are they? 17 A. Specifics, I don't know. I 18 know we had a coax running up in our 19 building in the production building, because 20 Prater would brag that he would go back 21 there and disconnect the coax to their 22 cameras in our section and then they would 23 call him and ask him what was wrong with it.</p>
<p style="text-align: right;">Page 374</p> <p>1 A. I don't -- Not offhand. But 2 like the e-mail from -- that I sent to 3 Kimball, I'd forgotten about it until today. 4 I mean, if I remember it, they'll know about 5 it. But as of right now, no. 6 Q. Okay. So as of right now, you 7 don't know of anything else that hasn't been 8 provided to your lawyers? 9 A. No. 10 MR. JOHNSON: That's it. I 11 appreciate your time. I know it was a long 12 time. 13 MR. KILBORN: I've got a few 14 questions. 15 EXAMINATION 16 BY MR. KILBORN: 17 Q. Mr. Dees, the security 18 building where you were taken, does that 19 building have recording devices? 20 A. Yes, sir. 21 Q. What type? 22 A. I know it has video recording 23 devices, I don't know if it has audio or</p>	<p style="text-align: right;">Page 376</p> <p>1 And he'd have to go hook it back up. 2 But as far as where they were 3 actually located, I don't know, I just know 4 they had them. Because like I said, he took 5 several of us back there and showed us the 6 coax bragging how he would turn it -- 7 disconnect it, and then they would call and 8 make -- the cameras would go blank when you 9 disconnect your feed, the cameras go black, 10 then they would call him and make him 11 reconnect it. So they did have cameras in 12 our section. 13 Q. And you mentioned another 14 recording, you said it was -- was it a Bill 15 Shivers? 16 A. Seivers. 17 Q. Seivers. Said he had 18 recordings by Applegate? 19 A. Said Prater stated to him that 20 he had voice recordings of Applegate telling 21 him to terminate me, that he needed to get 22 rid of me. 23 Q. Okay. Now, prior to the 26th</p>

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<p style="text-align: right;">Page 377</p> <p>1 of February when you were taken into the 2 firing room in the security house or 3 building, had you had any warning at all or 4 had you been told that you were going to be 5 terminated or that you were being considered 6 for termination? 7 A. No, sir. I had no idea 8 whatsoever. It floored me when I walked in 9 the room and they told me I was being fired. 10 There was nothing leading up to it, no 11 inclination, nothing. 12 Q. For instance, Defendant's 13 Exhibit 6 is the e-mail counsel asked you 14 about February 21, 2007, at 5:30 a.m. from 15 Prater to Applegate. It says: Based on 16 this conversation, I feel that even if he 17 was not sleeping, that he doesn't care 18 enough about his job to prevent anyone from 19 thinking he was sleeping. John, my 20 recommendation, as hard as it is for me to 21 say, termination. Greg. 22 Had you been told anything 23 like that at that time?</p>	<p style="text-align: right;">Page 379</p> <p>1 Q. Do they know why Hyundai said 2 you were terminated? 3 A. Yes, sir. 4 Q. All right. Does that create 5 any embarrassment for you? 6 A. Yes, sir. Because I didn't 7 talk to no one for a long time about it, and 8 everyone just assumed that I had actually 9 fell asleep on the job and all my military 10 friends and all my close friends, they 11 couldn't believe it. They kept asking me 12 did -- what happened. And I just -- I 13 didn't talk to nobody about it for a long 14 time, because like I said, that's -- I've 15 never. 16 Q. And up until Hyundai decided, 17 in their infinite wisdom, that you were a 18 man who slept on the job, you had a 19 blemish-free record both in civilian and 20 military life? 21 A. Yes, sir. 22 Q. And now whenever you apply for 23 employment or apply for anything, bank</p>
<p style="text-align: right;">Page 378</p> <p>1 A. No, sir. And Prater when he 2 got anybody fired, he always bragged about 3 it later. He had been responsible for two 4 people being fired prior to me, and all we 5 heard was him bragging about how he had got 6 them fired. 7 Q. Were you told when you were 8 terminated that you -- You were told you 9 were being terminated for sleeping? 10 A. That's what that -- the lady 11 said. 12 Q. All right. Were you told that 13 you were being terminated, because, quote, 14 you don't care about your job to prevent 15 anyone from thinking you were sleeping? 16 A. No, sir. 17 Q. And counsel also asked you 18 about embarrassment. And you do attend a 19 church? 20 A. Yes, sir. 21 Q. And do the people in the 22 church know that you got terminated? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 380</p> <p>1 credit, where there's a question about have 2 you ever been terminated or received any 3 type of job action, you've got to put that 4 down? 5 A. Yes, sir. When I went to work 6 for International Paper in Thorsby, I made 7 -- I made leadman in three years, and that 8 was unheard of. 9 Q. And was that -- Does the fact 10 that that blemish is now on your reputation, 11 does that cause you any distress? 12 A. Yes, sir. It still causes 13 problems. Even between me and my wife. I 14 mean, that -- Like I said, I've -- I take 15 pride in my work, just like I do my uniform. 16 And if I go to do something, I put a hundred 17 and fifty percent into whatever I'm doing. 18 Even the production people there and 19 maintenance people, all, when they said -- 20 found out that I had been accused of 21 sleeping, they said: There's no way, he's 22 too hyper. Because I'm an outgoing person, 23 even at night. I've always been that way.</p>

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<p style="text-align: right;">Page 381</p> <p>1 They said there's no way he was sleeping, it 2 ain't no way. And you can ask several of 3 the production people there in stamping, 4 production that I worked with, any of them, 5 they all know me. 6 MR. KILBORN: That's all I 7 have. 8 MR. JOHNSON: Just a couple 9 follow-up questions. 10 EXAMINATION CONTINUED 11 BY MR. JOHNSON: 12 Q. You mentioned some sort of 13 video in the security building? 14 A. Yes, sir. 15 Q. Do you know if it's actually 16 recording or just a video camera that's 17 monitored? 18 A. We was told it was a video 19 recording. 20 Q. Who told you that? 21 A. Prater and -- I have to think 22 about that one. Because it was one of the 23 other maintenance supervisors from one of</p>	<p style="text-align: right;">Page 383</p> <p>1 the ceiling, running conduit, waves through 2 conduit, through cable waves. There was no 3 way to follow that, no, we didn't have a 4 clue. 5 Q. Did you ever see them attached 6 to a camera? 7 A. No. I said there's no way. 8 But they had to -- How did they -- They said 9 they recorded the old girl doing the 10 striptease there in the plant by the press. 11 Q. Did you ever see any cameras 12 up in that third level near the SOP? 13 A. I never looked for them up 14 there. 15 Q. So you never saw any? 16 A. Like I said, I never looked 17 for any. They may have been up there, may 18 not have. I don't know, I never looked for 19 them. 20 Q. Okay. And what church do you 21 go to? 22 A. Hillcrest Baptist Church in 23 Maplesville, Alabama.</p>
<p style="text-align: right;">Page 382</p> <p>1 the other sections. I don't remember. 2 Q. When were you told that? 3 A. About from get-go. Well, they 4 briefed it in -- I believe they briefed it 5 in their hiring process. And -- Well, I 6 know it was recording, because they busted 7 one of the temporary workers out back and on 8 the floor there by the presses one night for 9 -- she was doing a striptease apparently 10 there by the presses one night, they said 11 the next thing they knew, security come 12 running through the building; said they used 13 the recording when they fired her. 14 Q. Okay. Are you aware of any -- 15 Well, you mentioned some coax cables? 16 A. For the cameras. 17 Q. Okay. Other than something 18 that Greg Prater might have told you about 19 those coax cables, do you know what they 20 were, where they went to, or where they came 21 from? 22 A. We tried to follow them out, 23 but it was seventy-five, seventy feet up in</p>	<p style="text-align: right;">Page 384</p> <p>1 Q. How big a church is that? 2 A. I don't know. Your average 3 sized church. Probably got a hundred people 4 there at any service. 5 Q. How many members total? 6 A. Oh, God, I don't know. 7 Q. You don't know? 8 A. I don't know. 9 Q. Do you know anybody else from 10 HMMA that works there -- or that goes to 11 church there? 12 A. Yes, sir. 13 Q. Who? 14 A. Keith Smith. 15 Q. Who is he? 16 A. He works -- He's a production 17 team leader over in general assembly. 18 Q. Okay. Now, you said people at 19 church knew that you had been terminated? 20 A. Yes, sir. 21 Q. Did you tell anybody at the 22 church? 23 A. Nope.</p>

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<p style="text-align: right;">Page 385</p> <p>1 Q. Do you have any idea how they 2 knew? 3 A. Yes, sir. 4 Q. How? 5 A. Keith's son worked in the 6 building I worked in. Derick. 7 Q. You think Derick told somebody 8 at the church? 9 A. They said Derick told his 10 father, and it just went from there. I live 11 in a small community, if you look wrong, 12 everybody knows it within five minutes. 13 Q. Okay. Did you ever talk to 14 Derick Smith or Keith Smith about it? 15 A. No, sir. 16 Q. You never talked to either of 17 them? 18 A. No, sir. 19 Q. Okay. Do you know anybody who 20 has? 21 A. No. 22 Q. Do you know if your wife did? 23 A. I don't know.</p>	<p style="text-align: right;">Page 387</p> <p>1 anything like this happen, and I was just -- 2 I went and talked to Mr. Bob and -- 3 Q. Who is Mr. Bob? 4 A. -- explained to him everything 5 that happened. And he's the one who put me 6 in contact with Mr. Kilborn. 7 Q. Okay. And is Bob Eddy just a 8 member of the church? 9 A. He's a member of the church 10 and a friend. 11 Q. Okay. But he's not like your 12 pastor or something like that? 13 A. No, sir. 14 Q. Okay. And what's the pastor's 15 name at the church? 16 A. We don't have one. He went 17 north to be with his family who is ill, and 18 he resigned a few weeks ago. His father is 19 in bad health. 20 Q. What was his name? 21 A. Jason Vincent. 22 Q. Did you ever talk to Jason 23 Vincent about this situation?</p>
<p style="text-align: right;">Page 386</p> <p>1 Q. Other than Derick and Keith 2 Smith, do you know anybody else at your 3 church who knows about it? 4 A. I think Keith is the only one, 5 I think, from church that goes there. But, 6 like I said, there's several people there in 7 the community that work down there. 8 Q. Did anybody from your church 9 say anything to you about what the situation 10 at HMMA? 11 A. There was a couple that asked, 12 but I don't remember. 13 Q. Do you know who asked? 14 A. They was asking that Sunday, 15 and I was trying to avoid the issue because 16 I was embarrassed. 17 Q. Did you ever have any 18 conversations with anybody at church that 19 you can recall, that knew about you being 20 terminated at Hyundai? 21 A. Just one person. Mr. Bob 22 Eddy. He's the one -- When I got fired, I 23 didn't know what to do. I had never had</p>	<p style="text-align: right;">Page 388</p> <p>1 A. No, sir. 2 Q. Did he ever call you to check 3 on you about it or do anything to suggest he 4 knew about it? 5 A. Like I said, I was embarrassed 6 about it, I didn't let on -- I didn't want 7 to talk to -- I didn't want to talk to 8 nobody about it. Like I say, ain't never 9 had anything like this happen. And when you 10 got -- When I walked in that first Sunday 11 and Keith looked at me and just hung his 12 head, and other people, I started to turn 13 around and walk out. 14 MR. JOHNSON: Okay. That's 15 all I've got. I appreciate it. 16 (The deposition was concluded at 5:33 p.m., 17 November 20, 2007.) 18 19 20 21 22 23</p>

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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA,
3 MONTGOMERY COUNTY,
4 I, Angela Smith McGalliard,
5 Registered Professional Reporter and
6 Certified Realtime Reporter, Commissioner
7 for the State of Alabama at Large, do hereby
8 certify that the above and foregoing
9 proceeding was taken down by me by
10 stenographic means, and that the content
11 herein was produced in transcript form by
12 computer aid under my supervision, and that
13 the foregoing represents, to the best of my
14 ability, a true and correct transcript of
15 the proceedings occurring on said date and
16 at said time.

17 I further certify that I am neither
18 of kin nor of counsel to the parties to the
19 action; nor in any manner interested in the
20 result of said case.
21

22 _____
23 Angela Smith
McGalliard, RPR, CRR,
CCR Lic. No. 98.

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